Draft Environmental Impact Report
The Reserve Residential Project

City of San José
July 2015

PREFACE

This document has been prepared by the City of San Jose as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (Title 14, California Code of Regulations §15000 *et seq.*), and the regulations and policies of the City of San Jose. The purpose of this Environmental Impact Report (EIR) is to inform decision makers and the general public of the environmental effects of the proposed project.

In 2011, the City of San Jose approved the *San Jose 2040 General Plan*, which is a long-range program for the future growth of the City. The *San Jose 2040 General Plan FEIR* was a broad range analysis of the planned growth and did not analyze specific development projects. The intent was for the *San Jose 2040 General Plan FEIR* to be a program level document from which subsequent development consistent with the General Plan could tier.

This EIR has been prepared as part of the supplemental environmental review process needed to evaluate the proposed project in terms of the overall development envisioned in the *San Jose 2040 General Plan.*

Purpose of the EIR

In accordance with CEQA, this EIR provides objective information regarding the environmental consequences of the proposed project to the decisions makers who will be considering and reviewing the proposed project. The CEQA Guidelines contain the following general information of the role of an EIR and its contents:

> **§15121(a) – Informational Document.** An EIR is an informational document, which will inform public agency decision makers, and the public of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The public agency shall consider the information in the EIR, along with other information that may be presented to the agency.
>
> **§15145 – Speculation.** If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.
>
> **§15151 – Standards for Adequacy of an EIR.** An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information that enables them to make a decision that intelligently considers environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good-faith effort at full disclosure.

Tiering From Previous EIRs

In accordance with CEQA, this EIR will tier from the *San Jose 2040 General Plan FEIR.* The CEQA Guidelines contain the following information on tiering an environmental document:

> **§ 15152 – Tiering.** (a) "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the EIR or negative declaration solely on the issues specific to the later project.
>
> (b) Agencies are encouraged to tier the environmental analyses which they prepare for separate but related projects including general plans, zoning changes, and development projects. This approach can eliminate repetitive discussions of the same issues and focus the later EIR or negative declaration on the actual issues ripe for decision at each level of environmental review. Tiering is appropriate when the sequences of analysis is from an EIR prepared for a general plan, policy or program to an EIR or negative declaration for another plan, policy or program of lesser scope, or to a site-specific EIR or negative declaration. Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first tier EIR need not be greater than that of the program, plan, policy, or ordinance being analyzed.

Noticing and Availability

In accordance with Section 15082 of the CEQA Guidelines, a Notice of Preparation (NOP) was circulated to the public and responsible agencies for input regarding the analysis in this EIR. This EIR addresses the issues raised by the public and responsible agencies in response to the NOP. The NOP and copies of the comment letters received are provided in Appendix H of this EIR. Responses to the NOP comment letter are provided in Appendix I.

This EIR and all documents referenced in it are available for public review at the Department of Planning, Building and Code Enforcement at San Jose City Hall, 200 E. Santa Clara Street, 3rd floor, during normal business hours.

TABLE OF CONTENTS

FIGURES

TABLES

APPENDICES

A – Transportation Impact Analysis
B – Air Quality Analysis
C – Noise Assessment
D – Geotechnical Report
E – Tree Survey
F – Phase I Environmental Site Assessment
G – Water Supply Assessment
H – Notice of Preparation and Comment Letters
I – Response to Notice of Preparation Comment Letters

SUMMARY

The project proposes to demolish an existing 216-unit apartment complex and construct a 650 unit apartment complex with up to 10,000 square feet of ground floor retail and underground parking.

The following is a summary of the significant impacts and mitigation measures addressed within this EIR. The project description and full discussion of impacts and mitigation measures can be found in *Section 2.0 Description of the Proposed Project, Section 4.0 Environmental Setting, Impacts, & Mitigation, and Section 6.0 Cumulative Impacts* of this EIR.

Significant Impacts	Mitigation Measures
Transportation – Section 4.2 of the EIR	
Impact TRAN-1: Implementation of the proposed project would have a significant impact on the Winchester Boulevard/Stevens Creek Boulevard, Monroe Street/Stevens Creek Boulevard, San Tomas Expressway/Stevens Creek Boulevard, and San Tomas Expressway/Moorpark Avenue intersections under background plus project conditions.	**MM TRAN-1.1:** This intersection has been identified by the City of San Jose as a protected intersection. Therefore, in lieu of physical improvements, the project applicant shall be required to construct offsetting improvements to other parts of the citywide transportation system. The final improvements required will be identified by the City of San Jose based on the traffic impact fees paid by the project. Offsetting improvements shall be implemented prior to issuance of occupancy permits for the new buildings. Pursuant to the City's policy, the implementation of offsetting improvements would provide project benefits that outweigh the project's significant impact. **MM TRAN-1.2:** Monroe Street and Stevens Creek Boulevard: There are no feasible capacity improvements for this intersection due to right-of-way restrictions. The addition of project traffic to the intersection would result in a significant unavoidable impact. Therefore, the intersection is proposed for addition to the City's list of protected intersections. **MM TRAN-1.3:** San Tomas Expressway and Stevens Creek Boulevard: The LOS of this intersection would be improved to an acceptable LOS D with the addition of a fourth through lane. The Comprehensive County Expressway Planning Study identified the widening of San Tomas Expressway as a Tier 1 priority. The project applicant shall pay a fair share contribution towards the County's addition of new through lanes on San Tomas

Please see previous page.	Expressway. The payment of fair share fees would reduce the project's impact to a less than significant level. **Less Than Significant With Mitigation (with the exception of Monroe Street/Stevens Creek Boulevard which is Significant and Unavoidable.**
Air Quality – Section 4.4 of the EIR	
Impact AIR-1: Construction of the proposed project would result in a temporary community risk impact.	**MM AIR 1-1:** All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; **MM AIR 1-2:** All diesel-powered portable equipment (i.e., air compressors) shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. **MM AIR 1-3:** Minimize the number of hours that equipment will operate, including the use of idling restrictions. **Less Than Significant Impact With Mitigation**
Noise – Section 4.6 of the EIR	
Impact NOI-1: Residential units facing Winchester Boulevard and Williams Road may be exposed to noise levels in excess of 45 dBA DNL.	**MM NOI-1.1:** In accordance with the *San Jose 2040 General Plan FEIR*, particularly Policy EC-1.1, the proposed project will be required by conditions of project approval to implement the following mitigation measures prior to issuance of buildings permits: • Sound rated construction methods shall be required for residential units fronting Winchester Boulevard, to maintain interior noise levels at 45 dBA DNL or less. Additional treatments may include, but are not limited to, sound rated wall construction, acoustical caulking, insulation, acoustical vents, etc. A preliminary review of the project plans and elevations indicates that windows and doors with a minimum Sound Transmission Class (STC) rating of 26 to 28 would be needed at units along Winchester Boulevard. The specific determination of what noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) are necessary will be completed by a qualified acoustical consultant on a unit by unit basis for those units

	identified as being impacted by exterior noise levels of 70 dBA DNL (as shown in figure – Figure 4 of Appendix C, *Environmental Noise Assessment*). Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans and approved prior to issuance of any building permits. • A suitable forced-air mechanical ventilation system, as determined by the Department of Planning, Building and Code Enforcement, for units nearest Winchester Boulevard and Williams Road will be installed to ensure that interior noise standards are met. The units required to have forced-air mechanical ventilation systems are shown in Figure 4 of Appendix C. The project developer will be required to submit a findings report by a qualified acoustical consultant verifying the interior noise levels of the affected units prior to the issuance of occupancy permits. **Less Than Significant Impact With Mitigation**
Biological Resources – Section 4.10 of the EIR	
Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.	**MM BIO 1-1:** Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31. **MM BIO 1-2:** If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the later part of the breeding season (May 1 through August 31). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with California Department of Fish and Wildlife, will determine the extent of a

	construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction, until the birds are fledged.
	Less Than Significant Impact With Mitigation
Impact BIO-2: Construction activities associated with the proposed project could result in the damage or loss of the 43 trees proposed to be retained on-site.	**MM BIO 2-1:** Prior to any construction on-site, the contractors working in the vicinity of trees to be preserved are required to meet with a Certified Arborist at the site to review all work procedures, access routes, storage areas, and tree protection measures. **MM BIO 2-2:** Prior to demolition, vegetation removal, or grading, establish a Tree Protection Zone around the trees, based on the outside edge of existing sidewalk cut-out planting space or the tree canopy. • Install hay bales around the trunk or erect fencing at the outside edge of the cut-out. Use wooden fencing; orange plastic is not permitted. **MM BIO 2-3:** Trees to be removed shall be felled so as to fall away from any Tree Protection Zones and avoid pulling and breaking of roots of trees to remain. If roots are entwined, under the direction of a Certified Arborist, the major woody root mass shall require severing before extracting the trees, or grinding the stump below ground. **MM BIO 2-4:** Design irrigation systems so that no trenching will occur within the Tree Protection Zone. **MM BIO 2-5:** Route underground services including utilities, sub-drains, water, or sewer around the Tree Protection Zone. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury. **MM BIO 2-6:** Use herbicides that are safe for the trees on-site, even below pavement. **MM BIO 2-7:** Trees to be preserved must be irrigated during the construction period. The irrigation schedule to be determined by a Certified Arborist. The soil within the Tree Protection Zone shall be irrigated so that the soil will be wet to a depth of 30". Irrigate each tree weekly during months with no or low rainfall.

	MM BIO 2-8: Any grading, construction, demolition, or other work that would encounter roots of trees to be preserved shall be monitored by a Certified Arborist. **MM BIO 2-9:** If injury occurs to any tree during construction, it shall be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied. **MM BIO 2-10:** Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent. **Less Than Significant Impact With Mitigation**
Hazards and Hazardous Materials – Section 4.11 of the EIR	
Impact HAZ-1: Implementation of the proposed project could expose construction workers, future on-site maintenance workers, and current and future residents to contaminated soils.	**MM HAZ-1.1:** Prior to any construction activities, soil samples shall be collected in the vicinity of the oil spillage. **MM HAZ-1.2:** After demolition of the buildings and hardscape, but prior to the issuance of grading permits, soil samples shall be taken to determine the levels of contamination in the soil from previous agricultural operations. • Soil samples shall be collected from the approximate surface of the native soil, to 0.5 foot depth, and shall be analyzed for organochlorine pesticides and pesticide related metals (e.g. arsenic, lead, and mercury). **MM HAZ-1.3:** The soil sampling results will be compared to appropriate risk-based screening levels and submitted to the Santa Clara County Department of Environmental Health (SCCDEH) and the City's Director of Planning, Building and Code Enforcement for review prior to issuance of grading permits. **MM HAZ-1.4:** If contaminated soils are found in concentrations above established thresholds for construction worker and residential environment safety, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The

contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the RWQCB, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; and soil stockpiling protocols.

MM HAZ-1.5: Prior to issuance of grading permits, a copy of the SMP must be approved by the SCCDEH and the City's Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department's Environmental Compliance Officer.

Less Than Significant Impact With Mitigation

Cumulative Impacts

Implementation of the proposed project would result in a 0.128 increase in V/C and a 29.7 second increase in critical delay in the AM Peak Hour causing the LOS F to degrade from D to E under cumulative conditions at the Winchester Boulevard/Williams Road intersection. The project would also result in a 0.049 increase in V/C and a 11.7 second increase in critical delay in the PM Peak Hour causing the LOS to degrade from D to E under cumulative conditions at the San Tomas Expressway/Moorpark Avenue intersection. The additional project traffic represents a 25 percent increase in total traffic volume at these intersections. Please refer to Section 6.0 for a complete discussion.

Summary of Alternatives to the Proposed Project

CEQA requires that an EIR identify alternatives to the project as proposed. The CEQA Guidelines specify that an EIR identify alternatives which "would feasibly attain the most basic objectives of the project but would avoid or substantially lessen many of the significant environmental effects of the project."

Below is a summary of the project alternatives. A full analysis of the project alternatives is provided in Section 7.0 of this EIR.

No Project – No Development Alternative

The No Project – No Development Alternative would retain the existing 216-unit apartment complex. If the project site were to remain as is there would be no new impacts. The project site is, however, currently designated *Urban Residential* in the 2040 General Plan. The existing apartment complex is inconsistent with the current land use designation because it is below the minimum density of 30 dwelling units per acre for the *Urban Residential* land use designation. No improvements would occur in and around the site.

No Project – R-M Zoning Redevelopment Alternative

The project site is currently designated *Urban Residential* in the 2040 General Plan. The existing apartment complex is inconsistent with the current land use designation because it does not meet the minimum density requirement of 30 dwelling units per acre. Because the current development is not consistent with the General Plan and is located within an Urban Village intended to accommodate future growth, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future with an increase in density over existing conditions.

The current R-M zoning has a maximum building height of 45 feet which would conservatively equate to three-stories of residential development plus rooftop equipment. Assuming a design similar to the proposed project, the project site could be redeveloped at a lower level of the allowable density. Based on the floor plates for the proposed project, and assuming below-grade parking and the street frontage retail, the site could be redeveloped with approximately 426 dwelling units (54 du/ac) in two three-story buildings. Additional units could be added by reducing the western setback from the proposed 60 feet to the minimum 25 feet allowed under the *R-M* zoning.

B. REDUCED DENSITY ALTERNATIVE

In an effort to avoid one or more of the significant transportation impacts and temporary TAC emissions impacts that would result from the proposed project but still provide new residential/retail on-site, this alternative evaluates a reduced density development of 500 apartments and 8,000 square feet of retail.

Under the reduced density alternative, the project would still propose a mixed-use mid-rise residential building with 8,000 square feet of ground floor retail and below grade parking. The basic building design and orientation would be the same as the proposed project. This alternative would, however, only propose 500 residential units, a reduction of 150 units compared to the proposed project. The building would continue to have the same setbacks as the proposed project, but under this alternative, the building would be reduced in height by two stories (down to four stories) along the project frontage. The height of the building along the western edge would remain the same at four stories.

Maintaining the same parking ratio of 1.38 spaces per unit, the project would provide a total of 710 parking spaces (65 on the drive aisles and 645 within the two-level below grade parking structure).

While the size of the parking structure could be reduced, it would still have to be two levels. The number of parking spaces along the at-grade drive aisles would not change.

Areas of Known Controversy

Based on comments received from the general public, areas on known controversy include increased traffic, access for emergency vehicles, impacts to schools, and density of the project.

SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 OVERVIEW

The project site is located in San Jose and is currently developed with a 216-unit apartment complex with surface parking lots and communal open space. The intent of the proposed project is to demolish the existing development and construct a new apartment complex with structured parking and ground floor retail. This EIR evaluates the impacts of the currently proposed project, development of up to 650 residential units, 10,000 square feet of retail, and an underground parking garage on the project site.

This EIR has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the City of San Jose. The purpose of this EIR is to provide objective information regarding the environmental consequences of the proposed mixed-use project to the decision makers who will be reviewing and considering the proposed project.

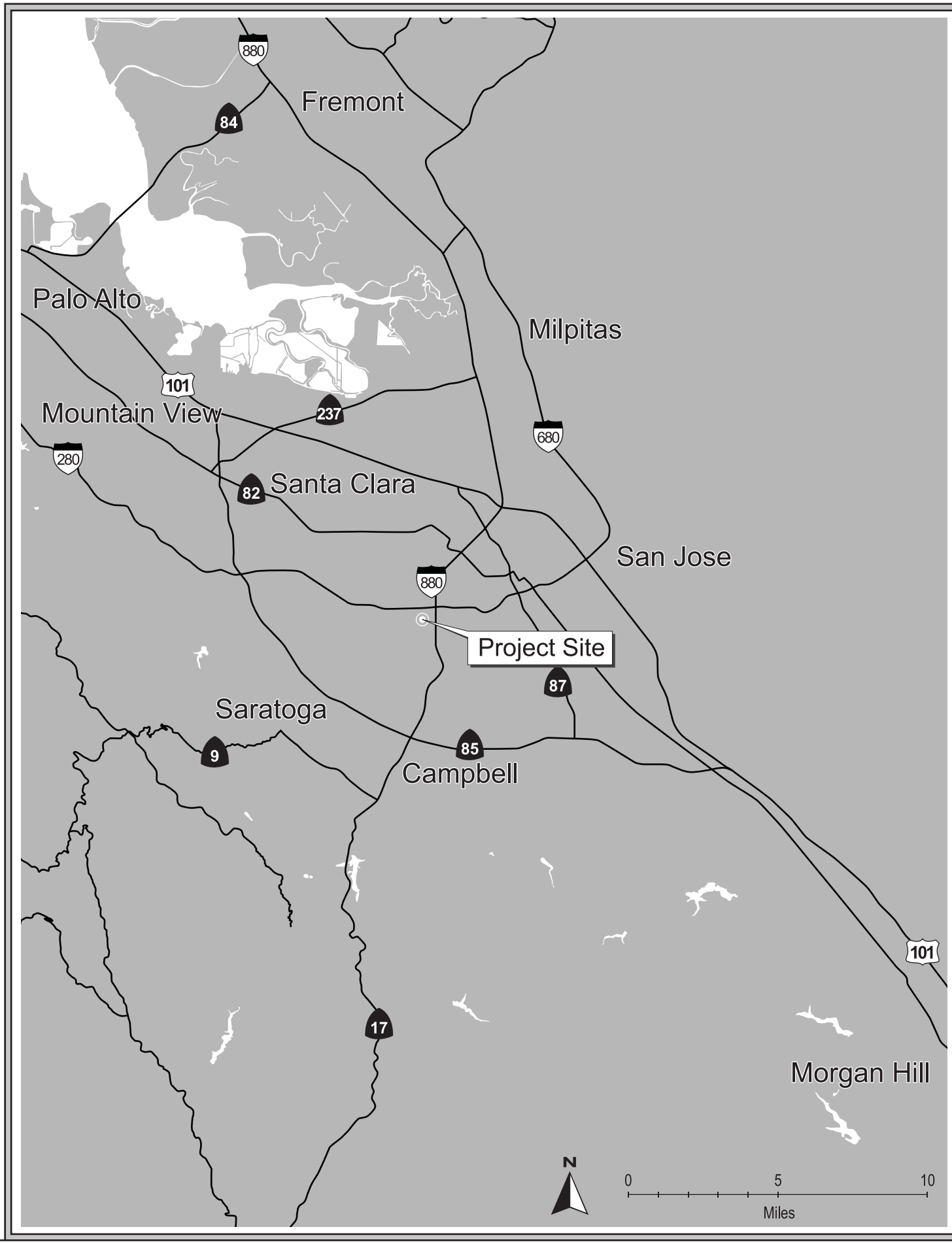
1.2 PROJECT LOCATION

The 7.68-acre project site is comprised of a single parcel (APN 299-26-059) located at the northwest corner of S. Winchester Boulevard and Williams Road in the City of San José. (see Figures 1 and 2)

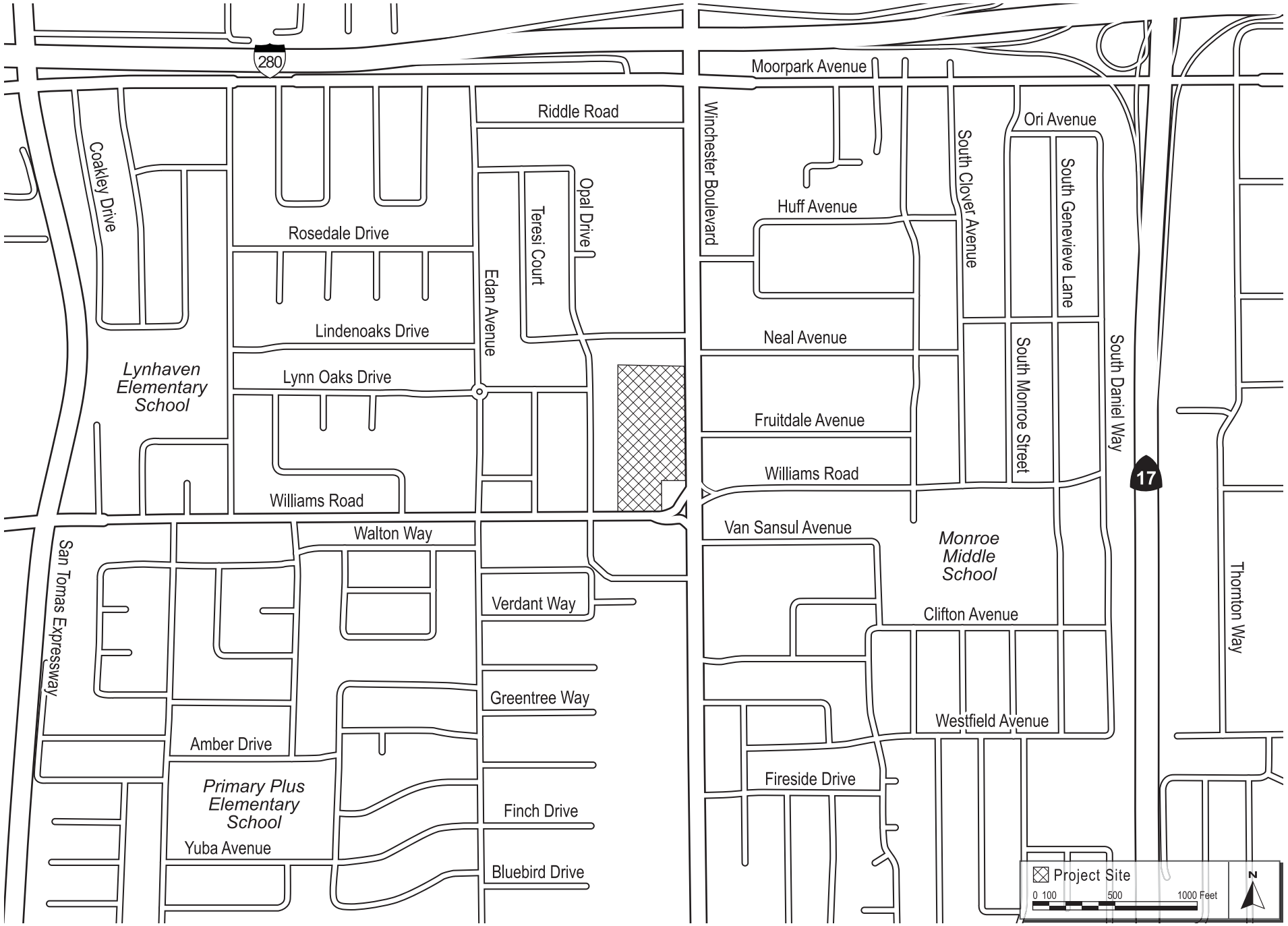
1.3 PROJECT OBJECTIVES

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. The stated objectives of the project proponent are to:

1. Rezone and redevelop the 7.68-acre site to allow for the creation of a Neighborhood Urban Village with high density residential units and approximately 10,000 square feet of retail/commercial space.
2. Support San Jose General Plan policies, such as H-3.1 and H-3.2 (please see Section 3.0, page 19), regarding intensification of units in Urban Villages by the replacement of 216 existing apartment units with up to 650 new multi-family units.
3. Provide on-site services to residents and support growth in employment and commercial activity by locating limited retail and other commercial uses within the residential project.
4. Provide an economically sustainable number of units to allow enhancement of the character of the neighborhood by providing common open space areas including plazas, courtyards, a recreation area, and seating areas.
5. Locate higher density housing with easy access to transportation corridors, rail transit stations, bus corridor stops, commercial services, and jobs.
6. Create a sustainable community by designing public spaces to encourage alternative forms of transportation such as walking, bicycling, and public transportation.
7. Assist the City of San Jose to satisfy its Regional Housing Needs Allocation for market rate housing units.



REGIONAL MAP FIGURE 1



VICINITY MAP

FIGURE 2

1.4 CITY OF SAN JOSE OBJECTIVES

The City identified the following goals and strategies for the 2040 General Plan which apply to the proposed project.

1. Major Strategy #3 - Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. The Plan focuses significant growth, particularly to increase employment capacity, in areas surrounding the City's regional Employment Center, achieve fiscal sustainability, and to maximize the use of transit systems within the region.

2. Major Strategy #5 – Urban Villages: Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals.

1.5 USES OF THE EIR

This EIR is intended to provide the City of San José, other public agencies, and the general public with the relevant environmental information needed in considering the proposed project.

The City of San José anticipates that discretionary approvals by the City, including but not limited to the following, will be required to implement the project addressed in this SEIR:

1. Planned Development Rezoning
2. Planned Development Permit, including Site and Architectural Review
3. Tentative Map
4. Issuance of grading, building, encroachment, and occupancy permits

The 7.68-acre project site is comprised of a single parcel (APN 299-26-059) located at the northwest corner of S. Winchester Boulevard and Williams Road in the City of San José.[1] The project site is designated *Urban Residential* in the General Plan and zoned *R-M – Multi-Family Residential.*

The project site is currently developed with 216 garden apartments in 27 multiple two-story buildings. Resident parking is provided along the western and northern boundaries of the project site and in four covered areas within the interior of the site, adjacent to the apartments. A small visitor parking lot is located along S. Winchester Boulevard, in front of the rental office, community building, and pool area. The site currently has 304 total parking spaces. The site is currently accessed by two ingress/egress driveways on Winchester Boulevard and one ingress/egress driveway on Williams Road. The northernmost driveway on Winchester Boulevard and the Williams Road driveway are gated and provide access to the resident parking areas. The second driveway on Winchester Boulevard provides access to the visitor parking lot.

Landscaping consists of large, mature trees throughout the project site and small lawn areas along with eastern and southern boundaries of the site.

2.1 REDEVELOPMENT AND SITE DESIGN

The project, as proposed, would demolish the existing structures and hardscape, remove the landscaping, and construct up to 650 residential units and 10,000 square feet of retail space (see Figure 3 – Site Plan). The project would include surface parking and two-levels of underground parking below the proposed buildings. The buildings would be a maximum of six stories in height along Winchester Boulevard, stepping down to four stories near the western boundary of the site. The buildings would have varying roof lines with an average height of 70 feet. The building would be 55 feet tall along the western portion of the site, increasing to 85 feet tall along Winchester Boulevard. With the inclusion of mechanical equipment screening and elevator shafts, the maximum building height would be 95 feet (see Figure 4 – Elevations).

South and east of the project site, on the northwest corner of S. Winchester Boulevard and Williams Road, is a commercial property. The proposed buildings on-site would be set back a minimum of 7.5 feet from the shared property line of the commercial development, 60 feet from the northern and western property line, and 15 feet from the two street frontages.

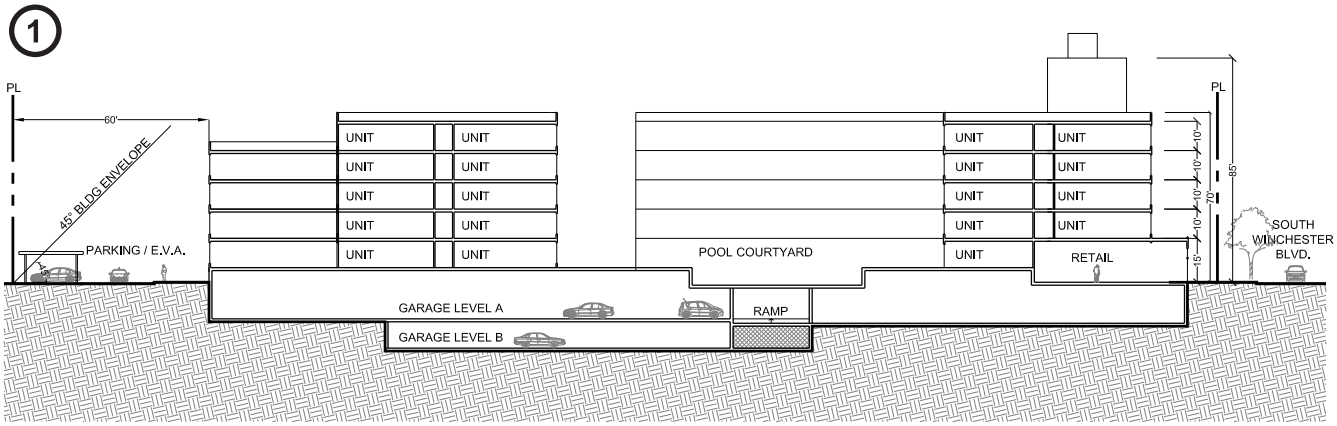
2.1.1 Access and Parking

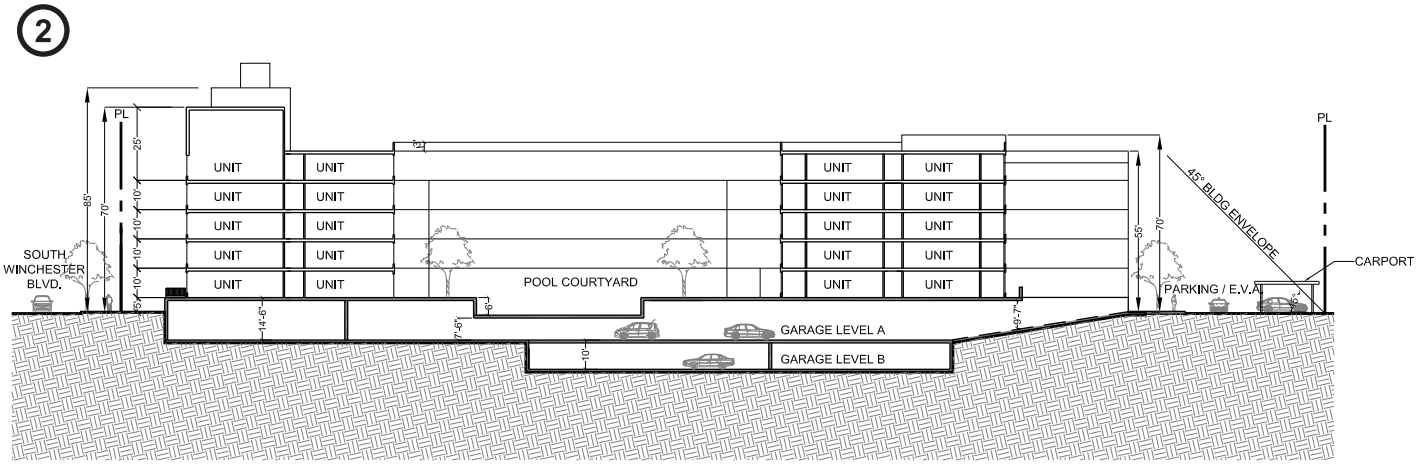
The project proposes to construct a gated private driveway/access road along the northern and western property lines (similar to the existing development) that would connect to S. Winchester Boulevard and Williams Road. A two-level underground parking structure, with a maximum depth of approximately 20 feet below grade, is proposed. The first level of the parking structure would

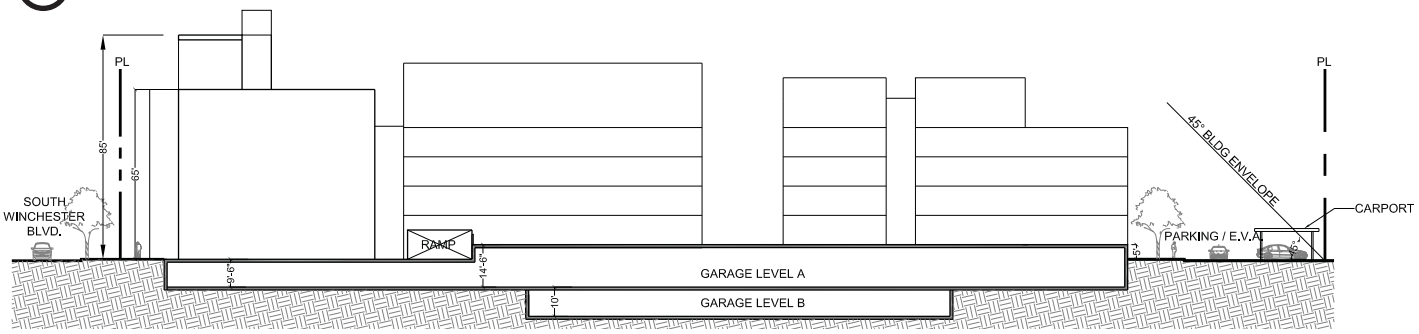
[1] The project site does not include the commercial property on the corner of S. Winchester Boulevard and Williams Road.

SITE PLAN

FIGURE 3







BUILDING ELEVATIONS FIGURE 4

include a storage area, 20 retail parking spaces, and 549 residential parking spaces. The second level of the garage would provide 286 residential parking spaces.

Access to the underground garage would be from a driveway on S. Winchester Boulevard. Eight visitor parking spaces would be located along this driveway aisle. The parking structure would also be accessible by two ramps from the private access road along the western boundary of the site. The private road would include up to 65 covered surface parking spaces for residents. Retail and emergency vehicles would access the site via the driveways on S. Winchester Boulevard and Williams Road.

2.1.2 Common Recreational and Open Space

Within the residential building, the project proposes approximately 2,500 square feet of amenity space including a gym and community room. The project also proposes common open space areas including plazas, courtyards, a recreation area, and seating areas. Two landscaped plazas would serve as pedestrian entry points from the surface parking area along the western boundary, the underground parking structure, and the visitor lot. Two large courtyards totaling 32,311 square feet would be located on the northern and southern portions of the site and would include pools and seating areas. These courtyards would be surrounded on four sides by the proposed buildings. An approximately 7,050 square foot recreation space, including a seating area, is proposed on the southeastern portion of the site adjacent to the existing commercial building. Four small landscaped areas would be located on the west side of the residential complex.

2.1.3 Project Phasing

Construction of the proposed project will include demolition of the existing buildings and hardscape, excavation of most of the entire site for two levels of underground parking, and construction of the multi-family residential buildings. No piles will be utilized in construction of the project. The project is proposed to be constructed in two phases. The first phase would include demolition of the existing buildings and construction of the new building on the southern half of the site. The second phase would include demolition and construction of the buildings on the northern half of the site.

2.2 GENERAL PLAN LAND USE DESIGNATION

The project site is currently designated *Urban Residential* and is located within the *Winchester Urban Village* in the Envision San Jose 2040 General Plan. The *Urban Residential* land use designation is intended for residential development at 30-95 dwelling units per acre (DU/AC). Within this designation, a floor area ratio (FAR) of 1.0 to 4.0 is permitted with building heights of three to 12 stories. As described in the General Plan, the *Urban Residential* land use designation:

> "…allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. Any new residential development at this density should be in Growth Areas or, on a

very limited basis, as infill development within areas with characteristics similar to the Urban Village areas (generally developed at high-density and in proximity to transit, jobs, amenities and other services). The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy document. This designation is also used to identify portions of Urban Village areas where the density of new development should be limited to a medium intensity in order to provide for a gradual transition between surrounding low-density neighborhoods and other areas within the Urban Village suitable for greater intensification. The allowable density/intensity for mixed-use development will be determined using an allowable FAR (1.0 to 4.0) to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. Developments in this designation would typically be three to four stories of residential or commercial uses over parking."

The proposed project would construct up to 85 DU/AC and would have an FAR of 2.08 in two four- to six-story buildings. In addition, the project would include 10,000 square feet of ground floor commercial space. Therefore, the project is consistent with the density, FAR, and height limits of the *Urban Residential* General Plan designation.

The project site is located within the *Winchester Urban Village*, an identified growth area in the Envision San Jose 2040 General Plan. An Urban Village Plan has not yet been prepared for the Winchester Urban Village, but the planned development capacity, as noted in Appendix 5 of the General Plan, assumes the development of up to 2,000 residential units and 4,600 jobs.

2.3 ZONING DISTRICT

The project site is zoned *R-M – Multi-Family Residential* which permits single-family and multiple family dwelling units. The intent of this zoning district is to reserve land for the construction, use, and occupancy of higher density residential development. This zoning district requires minimum building setbacks of 15 feet along the street frontage (Winchester Boulevard), 7.5 feet from a side corner[2] (Williams Road), and 25 feet from rear boundaries of the site (i.e., property lines that are adjacent to other parcels). The maximum allowable building height is 45 feet.

According to Table 20-210 in the City's Municipal Code, a multiple dwelling unit development requires 1.25 vehicle parking spaces for one-bedroom units, 1.7 spaces for two-bedroom units, 2.0 spaces for three-bedroom units, and 0.15 spaces for each addition bedroom unit (beyond three bedrooms). For every four residential units, one bicycle parking space is required. Retail space would require one parking space per 400 square feet of floor area.

While the project is consistent the development setbacks and parking requirements of the zoning district, the proposed building heights exceed the requirements. Therefore, the project would be not consistent with the zoning district and an *A(PD) Planned Development* rezoning is proposed.

[2] Side corner of a lot refers to the corner boundary of a property that is near the street frontage.

In conformance with Section 15125(d) of the CEQA Guidelines, the following section discusses the consistency of the proposed project with relevant adopted plans and policies.

3.1 Bay Area 2010 Clean Air Plan

The Bay Area Air Quality Management District (BAAQMD), in cooperation with the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), prepared the Bay Area 2005 Ozone Strategy (Ozone Strategy). The Ozone Strategy served as a roadmap showing how the San Francisco Bay Area will achieve compliance with the State one-hour air quality standard for ozone as expeditiously as practicable and how the region will reduce transport of ozone and ozone precursors to neighboring air basins. In 2010, BAAQMD adopted a new Clean Air Plan with the intent of updating the 2005 Ozone Strategy to comply with State air quality planning requirements as codified in the California Health and Safety Code.

The Bay Area 2010 Clean Air Plan (CAP) provides a comprehensive plan to improve Bay Area air quality and protect public health. The CAP defines a control strategy that the Air District and its partners will implement to: (1) reduce emissions and decrease ambient concentrations of harmful pollutants; (2) safeguard public health by reducing exposure to air pollutants that pose the greatest health risk, with an emphasis on protecting the communities most heavily impacted by air pollution; and (3) reduce greenhouse gas (GHG) emissions to protect the climate.

Consistency: The proposed project would result in an intensification of residential and commercial development within the Winchester Urban Village of San Jose consistent with the *Envision San Jose 2040 General Plan.* The project would place new housing within walking distance of jobs, services, and transit and is consistent with the control measures in the CAP. Please see Section 4.4.3.1 for a complete discussion.

3.2 Santa Clara County Congestion Management Program

The Santa Clara Valley Transportation Authority (VTA) oversees the *Santa Clara County Congestion Management Program* (CMP). The relevant State legislation requires that all urbanized counties in California prepare a CMP in order to obtain each county's share of gas tax revenues. The CMP legislation requires that each CMP contain the following five mandatory elements: 1) a system definition and traffic level of service standard element; 2) a transit service and standards element; 3) a trip reduction and transportation demand management element; 4) a land use impact analysis program element; and 5) a capital improvement element. The Santa Clara County CMP, which is updated at the end of every odd-numbered year, includes the five mandated elements and three additional elements, including: a county-wide transportation model and data base element, an annual monitoring and conformance element, and a deficiency plan element.

Consistency: The proposed project would have a significant impact on two CMP intersections (see Section 4.2, *Transportation*). The project would also increase the density of housing in proximity to jobs, retail, and services, as well as transit, to reduce overall vehicle trip lengths relative to existing commute patterns. The project is, therefore, consistent with the CMP.

3.3 San Francisco Bay Region Water Quality Control Plan

The State of California's Porter-Cologne Water Control Act provides the basis for water quality regulation within California and the Act assigns primary responsibility for the protection and enhancement of water quality to the State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards. These agencies are authorized to adopt regional water quality control plans, prescribe waste discharge requirements, and perform other functions concerning water quality control within their respective regions.

The Regional Water Quality Control Board (RWQCB) has developed and adopted a Water Quality Control Plan (the Plan) for the San Francisco Bay region. The Plan is a master policy document that contains descriptions of the legal, technical, and programmatic bases of water quality regulations in the San Francisco Bay region. The Plan provides a program of actions designed to preserve and enhance water quality, and to protect beneficial uses based upon the requirements of the Porter-Cologne Act. It meets the requirements of the U.S. Environmental Protection Agency (USEPA) and establishes conditions related to discharges that must be met at all times.

Consistency: As discussed in Section 4.9, *Hydrology and Water Quality,* future development on the site will be required to be implemented in conformance with the Municipal Regional Stormwater NPDES permit and the Construction General NPDES Permit requirements to ensure that there is no increase in erosion or sedimentation that could impact local waterways and that stormwater runoff from the site's impervious surfaces is treated prior to discharge to the stormwater system. Therefore, the project is consistent with the San Francisco Bay Regional Water Quality Control Plan.

3.4 City of San Jose General Plan

The City of San José's General Plan is an adopted statement of goals and polices for the future character and quality of development in the community as a whole. The following is a summary of relevant sections of the General Plan that would apply to the proposed project.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

> **Consistency:** The proposed project will be required to comply with the City's Design Guidelines. Therefore, the proposed project is consistent with Policy CD-1.1.

Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

> **Consistency:** The proposed project will provide street trees and other amenities as deemed appropriate by the City to create a positive pedestrian environment around the project site. Therefore, the project is consistent with Policy CD-1.7.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

> **Consistency:** While the project proposes a six-story residential building, the ground floor retail space will be scaled and designed to a pedestrian scale. Therefore, the project is consistent with Policy CD-1.8.

Policy CD-1.23: Further the Community Forest Goals and Policies in this Plan by requiring new development to plant and maintain trees at appropriate locations on private property and along public street frontages. Use trees to help soften the appearance of the built environment, help provide transitions between land uses, and shade pedestrian and bicycle areas.

> **Consistency:** While the project will result in the loss of mature trees on-site, the proposed project will plant new trees consistent with the City's tree replacement policy. Therefore, the project is consistent with Policy CD-1.23.

Policy CD-1.24: Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Avoid any adverse affect on the health and longevity of such trees through design measures, construction, and best maintenance practices. When tree preservation is not feasible, include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

> **Consistency:** Implementation of the proposed project will result in the loss of trees on the project site. While there are ordinance sized trees, there are currently no designated heritage trees on the project site. All trees removed, regardless of size or species, will be replaced in accordance with the City's tree replacement policy. Existing trees located along the entire perimeter of the site will be preserved to the extent feasible. Therefore, the project is consistent with Policy CD-1.24.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

> **Consistency:** The proposed development will larger in height and massing than other development in the immediate area. The project is, however, consistent with the City's goals of development within the Urban Village and the project has been designed and sited to be sensitive to nearby residential land uses. Therefore, the project is consistent with Policy CD-4.9.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Consistency: The proposed project is outside the FAA obstruction zone and the Mineta San Jose airport land use plan area. Proposed development on-site will not conflict with air safety or FAA regulations. Therefore, the project is consistent with Policy CD-5.8.

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Consistency: As discussed in Section 4.6, *Noise*, the proposed development on the project site is consistent with the City's noise standards. Therefore, the proposed project is consistent with Policy EC-1.1.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Consistency: As discussed in Section 4.6, *Noise*, the proposed project site is consistent with the City's noise standards relative to the generation of new or increased noises at nearby sensitive receptors. Therefore, the proposed project is consistent with Policy EC-1.2.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

> **Consistency:** As discussed in Section 4.6, *Noise,* all construction activities resulting from the proposed PD rezoning will comply with the City's requirements for noise suppression and hours of construction. Therefore, the proposed project is consistent with Policy EC-1.7.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

> **Consistency:** As discussed in Section 5.0, *Public Facilities and Services,* all future development under the proposed PD rezoning will be constructed in accordance with applicable building codes to reduce the potential for safety and fire issues. Therefore, the proposed project is consistent with Policy EC-3.1.

Policy EC-3.2: Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

> **Consistency:** As discussed in Section 4.8, *Geology and Soils,* the project site is not located within Alquist-Priolo Fault Zone, but is susceptible to severe ground shaking. As a result, the proposed project will be constructed in conformance with the current Building Code and a project specific geotechnical report. Therefore, the proposed project is consistent with Policy EC-3.2.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

> **Consistency:** As discussed in Section 4.8, *Geology and Soils,* the proposed project will be constructed in conformance with the Building Code. In addition, the project will be required

as a condition of approval to conform to all applicable municipal code requirements. Therefore, the proposed project is consistent with Policy EC-4.1.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Consistency: The proposed project will be constructed consistent with the City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code as discussed in Section 2.9. Therefore, the project is consistent with Policy EC-4.5.

Policy EC-4.7: Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

Consistency: As discussed in SectioN 4.8, the proposed project must be constructed in conformance with the recommendations of a site-specific geotechnical analysis as well as the most current California Building Code. Therefore, the project is consistent with Policy EC-4.7.

Policy EC-5.1: The City shall require evaluation of flood hazards prior to approval of development projects within a Federal Emergency Management Agency (FEMA) designated floodplain. Review new development and substantial improvements to existing structures to ensure it is designed to provide protection from flooding with a one percent annual chance of occurrence, commonly referred to as the "100-year" flood or whatever designated benchmark FEMA may adopt in the future. New development should also provide protection for less frequent flood events when required by the State.

Consistency: The proposed project is outside the 100-year flood zone. Therefore, the project is consistent with Policy EC-5.1.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Consistency: As discussed in Section 4.9, the proposed project will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit as they are applicable at the Development Permit stage. Therefore, the project is consistent with Policy EC-5.16.

Policy EC-6.6: Address through environmental review for all proposals for new residential, park and recreation, school, day care, hospital, church or other uses that would place a sensitive population in close proximity to sites on which hazardous materials are or are likely to be located, the likelihood of an accidental release, the risks posed to human health and for sensitive populations, and mitigation measures, if needed, to protect human health.

Consistency: A Phase I Environmental Site Assessment was utilized to determine the likelihood of impacts to future residents on-site. The reports found no environmental conditions that would affect the health of future site users and occupants as discussed in Section 4.11. Therefore, the project is consistent with Policy EC-6.6.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Consistency: Section 4.11, *Hazards and Hazardous Materials,* identifies all known and potential hazardous materials issues on the project site. Therefore, the project is consistent with Policy EC-7.1.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater, and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor, and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state, and federal laws, regulations, guidelines, and standards.

Consistency: Section 4.11, *Hazards and Hazardous Materials,* discusses all known and potential hazardous materials issues on the project site and identifies conditions of approval consistent with applicable regulatory requirements and existing development permit standards for the handling and disposal of contaminates found on-site. Therefore, the project is consistent with Policy EC-7.2.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

Consistency: Section 4.11 discusses the known and potential sources of asbestos and lead-based paint on the project site and identifies the applicable regulatory standards for remediation which are included in the project as conditions of approval. Therefore, the project is consistent with Policy EC-7.4.

Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffered between such activities and active nests would avoid such impacts.

Consistency: As discussed in Section 4.10, construction of the proposed project could result in the loss of active raptor nests due to disturbance or removal of the mature trees on-site. Mitigation measures have been identified to reduce this impact to a less than significant level. Therefore, the project is consistent with Policy ER-5.1.

Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

> **Consistency:** As discussed in Section 4.10, construction of the proposed project could result in the loss of active raptor nests as well as the nests of migratory birds due to disturbance or removal of trees. Mitigation measures have been identified (Section 4.10.4.2) to reduce this impact to a less than significant level. Therefore, the project is consistent with Policy ER-5.2.

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) policies.

> **Consistency:** As discussed in Section 4.9, the proposed project would replace more than 10,000 square feet of impervious surface area on the project site. Therefore, proposed development will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit as they are applicable at the Development Permit stage. Therefore, the project is consistent with Policy ER-8.1.

Policy ER-8.3: Ensure that private development projects in San Jose includes adequate measures to treat stormwater runoff.

> **Consistency:** As discussed in Section 4.9 the proposed project would replace more than 10,000 square feet of impervious surface area on the project site. Therefore, proposed development will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit as they are applicable at the Development Permit stage. Therefore, the project is consistent with Policy ER-8.3.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

> **Consistency:** Section 4.12 discusses the potential for subsurface artifacts, including archaeological and paleontological resources to be found on-site. The analysis found that the potential for subsurface resources is extremely low and no mitigation is required, though standard City permit conditions will apply. The project is consistent with Policy ER-10.1

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced

Consistency: It is highly unlikely that human remains would be found on-site. If, however, remains are found, all work in the area of the find will be stopped and all applicable State regulations will be implemented. Therefore, the project is consistent with Policy ER-10.2.

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

Consistency: Section 4.12 discusses the potential for subsurface artifacts, including archaeological and paleontological resources to be found on-site. The analysis found that the potential for subsurface resources is extremely low. If, however, as yet unknown subsurface resources are found on-site, all work in the area of the find will be stopped and all applicable local and State regulations will be implemented. Therefore, the project is consistent with Policy ER-10.3.

Policy ES-4.9: Permit development only in those areas where potential danger to the health, safety, and welfare of persons in that area can be mitigated to an acceptable level.

Consistency: As discussed throughout this EIR, implementation of the proposed project will not impact the health, safety, or welfare of persons working or residing in the City of San Jose. Therefore, the proposed project is consistent with Policy ES-4.9.

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Consistency: As discussed in Section 5.0, the proposed project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. Therefore, the project is consistent with Policy ES-3.9.

Policy H-4.1: Implement green building principles in the design and construction of housing and related infrastructure, in conformance with the Green Building Goals and Policies in the Envision General Plan and in conformance with the City's Green Building Ordinance.

Consistency: The proposed project will be required as a condition of approval to comply with the City's Green Building Ordinance. Therefore, the project is consistent with Policy H-4.1.

Policy H-3.1: Require the development of housing that incorporates the highest possible level of amenities, fit and finish, urban design and architectural quality.

Consistency: The project has been designed to include multiple indoor and outdoor amenities for future residents and will be required to meet the City's architectural standards. Therefore, the project is consistent with Policy H-3.1.

Policy H-3.2: Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to:

1. Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities.
2. Maximize transit usage.
3. Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit.
4. Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project.
5. Use architectural elements or themes from the surrounding neighborhood when appropriate.
6. Provide residents with access to adequate on- or off-site open space.
7. Create a building scale that does not overwhelm the neighborhood.
8. Be useable by people of all ages, abilities, and needs to the greatest extent possible, without the need for adaptation or specialized design.

Consistency: The proposed project would increase the residential density on the project site, in proximity to transit, services, and jobs. In addition, the project is designed to be sensitive to the surrounding single- and multi-family housing and provides on-site amenities. Therefore, the project is consistent with Policy H-3.2.

Policy H-4.2: Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.

Consistency: The project proposes mixed-use high density development in a highly urbanized area within walking distance of transit, jobs, and services. Therefore, the project is consistent with Policy H-4.2.

Policy H-4.3: Encourage the development of higher residential densities in complete, mixed-use, walkable and bikeable communities to reduce energy use and greenhouse gas emissions.

Consistency: The project proposes mixed-use high density development in a highly urbanized area within walking distance of transit, jobs, and services in a designated Urban Village. Therefore, the project is consistent with Policy H-4.2.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

Consistency: As discussed in Section 4.9, the proposed development will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional NPDES permit as they are applicable at the Development Permit stage. Therefore, the project is consistent with Policy IN-3.10.

Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* vision, goals and policies.

Consistency: The proposed project is consistent with the General Plan land use designation and the goals and policies of the General Plan, including intensification of mixed-use development within a designated Urban Village. Therefore, the project is consistent with Policy IP-1.6.

Policy MC-3.1: Require water-efficient landscaping, which conforms to the State's Model Water Efficient Landscape Ordinance, for all new commercial, institutional, industrial, and developer-installed residential development unless for recreational needs or other area functions.

Consistency: The final landscape design will be reviewed and approved by the City prior to issuance of building permits to ensure compliance with applicable City policies pertaining to water-efficient landscaping. Therefore, the project is consistent with Policy MC-3.1.

Policy MS-3.5: Minimize areas dedicated to surface parking to reduce rainwater that comes into contact with pollutants.

Consistency: The project proposes to remove some existing surface parking and provide the majority of on-site parking in an underground parking structure. With redevelopment of the site, the project will reduce the amount of stormwater pollutants from surface parking areas entering the storm drainage system. Therefore, the project is consistent with Policy MS-3.5.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Consistency: The potential air emissions impacts from the proposed project were analyzed consistent with the BAAQMD CEQA Guidelines and State and Federal standards. Construction impacts were identified and mitigation measures proposed to reduce the identified impacts to a less than significant level. Therefore, the proposed project is consistent with Policy MA-10.1.

Policy MS-10.6: Encourage mixed land use development near transit lines and provide retail and other types of service oriented uses within walking distance to minimize automobile dependent development.

Consistency: The proposed project is a mixed-use development which provide on-site retail for future residents and is within walking distance of transit, jobs, and services. Therefore, the project is consistent with Policy MS-10.6.

Policy MS-11.1: Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

Consistency: The potential TAC impacts on future residents of the project site were analyzed consistent with the BAAQMD CEQA Guidelines and mitigation measures have been identified and are required to reduce significant impacts. The air quality analysis is provided in Section 4.4 of this EIR. The project is consistent with Policy MS-11.1.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Consistency: As discussed in Section 4.4, *Air Quality*, the project includes all applicable control measures for construction emissions as required by the City. Therefore, the proposed project is consistent with Policy MS-13.1.

Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

Consistency: As discussed in Section 4.11, *Hazards and Hazardous Materials,* the project will be required to comply with all applicable State and Federal laws pertaining to asbestos removal and exposure during construction. Therefore, the proposed project is consistent with Policy MA-13.3.

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Consistency: Implementation of the proposed project will result in the loss of mature trees on the project site. All trees removed, regardless of size or species, will be replaced in accordance with the City's tree replacement policy. Existing trees will be retained on the entire perimeter of the site to the extent feasible. Therefore, the project is consistent with Policy MS-21.4.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Consistency: Implementation of the proposed project will result in the loss of trees on the project site. All trees removed, regardless of size or species, will be replaced in accordance with the City's tree replacement policy. While there are ordinance sized trees, there are

currently no designated heritage trees on the project site. Therefore, the project is consistent with Policy MS-21.5.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

Consistency: Implementation of the proposed project will result in the loss of mature trees on the project site. All trees removed, regardless of size or species, will be replaced in accordance with the City's tree replacement policy. Therefore, the project is consistent with Policy MS-21.6.

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Consistency: A transportation impact analysis was prepared for the proposed project (See Section 4.2, *Transportation)* which identified three intersection impacts. The project proposes mitigation to reduce the intersection impacts and will be required to pay fees for off-setting improvements to alternative modes of transportation including pedestrian and bicycle facilities. Therefore, the project is consistent with Policy TR-1.2.

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Consistency: The project proposes mitigation to reduce the identified intersection impacts and will be required to pay fees for off-setting improvements to alternative modes of transportation including pedestrian and bicycle facilities. Therefore, the project is consistent with Policy TR-1.4.

Policy TR-2.8: Require new development where feasible to provide on-site facilities such as bicycle storage and showers, provide connections to existing and planned facilities, dedicate land to expand existing facilities or provide new facilities such as sidewalks and/or bicycle lanes/paths, or share in the cost of improvements.

Consistency: The project, as proposed, will include secure bicycle parking. Therefore, it is consistent with Policy TR-2.8.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Consistency: The proposed project will provide additional housing within an existing mixed-use area in proximity to existing transit. Therefore, the project is consistent with Policy TR-3.3.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas. How this policy is applied and exceptions to this policy are listed in the following bullets:

- Vehicular Traffic Mitigation Measures. Review development proposals for their impacts on the level of service and require appropriate mitigation measures if development of the project has the potential to reduce the level of service to "E" or worse. These mitigation measures typically involve street improvements. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

- Area Development Policy. An "area development policy" may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which identifies development impacts and mitigation measures. These policies may take other names or forms to accomplish the same purpose. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year.

- Small Projects. Small projects may be defined and exempted from traffic analysis per the City's transportation policies.

- Downtown. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, development within the Downtown is exempted from traffic mitigation requirements. Intersections within and on the boundary of this area are also exempted from the level of service "D" performance criteria.

- Special Strategy Areas. In recognition of the unique characteristics and particular goals of Special Strategy Areas, intersections identified as Protected Intersections within these areas, may be exempt from traffic mitigation requirements. Special Strategy Areas are identified in the City's adopted General Plan and include Urban Villages, Transit Station Areas, and Specific Plan Areas.
- Protected Intersections. In recognition that roadway capacity-enhancing improvement measures can impede the City's ability to encourage infill, preserve community livability, and promote transportation alternatives that do not solely rely on automobile travel, specially designated Protected Intersections are exempt from traffic mitigation measures. Protected Intersections are located in Special Planning Areas where proposed developments causing a significant level of service (LOS) impact at a Protected Intersection are required to construct multimodal (non-automotive) transportation improvements in one of the City's designated Community Improvement Zones. These multimodal improvements are referred to as offsetting improvements and include improvements to transit, bicycle, and/or pedestrian facilities.

Consistency: The proposed project will result in LOS impacts at three intersections. Two of the intersections are currently designated by the City as protected intersections. With the payment of trip fees for the protected intersections, the project would have a less than significant impact. The remaining intersection is a CMP intersection with identified Tier 1 improvements. The project will be required to pay fair share fees toward the identified improvements which will improve the LOS of these intersections to an acceptable level. Therefore, the proposed project is consistent with Policy TR-5.3.

4.1 LAND USE

4.1.1 Existing Setting

The following discussion identifies the existing conditions on and adjacent to the proposed project site.

4.1.1.1 Existing Land Use

The 7.68-acre project site is comprised of a single parcel (APN 299-26-059) located at the northwest corner of S. Winchester Boulevard and Williams Road in the City of San José.[3] The site is currently developed with 216 garden apartments in 27 two-story buildings with surface parking, a community room/leasing office, and recreational areas including a pool.

The site is currently accessed by two ingress/egress driveways on Winchester Boulevard and one ingress/egress driveway on William Street. The northernmost driveway on Winchester Boulevard and the William Street driveway are gated and provide access to the resident parking areas. The second driveway on Winchester Boulevard provides access to the visitor parking lot.

The site has extensive landscaping with delineated planter beds around the building, large lawns between the buildings and along the roadway frontages, and a dense canopy of mature trees.

Figure 5 shows an aerial of the project site and surrounding land uses.

4.1.1.2 Surrounding Land Uses

Development in the project area is a mix of single-family and multi-family residences with retail/commercial and office uses along Winchester Boulevard. The building heights vary by land use from one to four stories. The project site is bound by South Winchester Boulevard to the east, a one-story retail building with a large surface parking lot and Williams Road to the south, single-family and multi-family residences to the west, and multi-family residences to the north. Immediately adjacent to the project site, at the northwest corner of South Winchester Boulevard and Williams Road, is a one-story commercial building with a larger surface parking lot. The commercial property shares two property lines with the project site.

In the vicinity of the project site, South Winchester Boulevard is a six-lane roadway with a raised center median. Winchester Boulevard is classified by the City as a major transportation corridor. Williams Road is a four-lane roadway with designated bicycle lanes in both directions.

[3] The project site does not include the commercial property on the corner of S. Winchester Boulevard and Williams Road.

AERIAL PHOTOGRAPH AND SURROUNDING LAND USES FIGURE 5

Immediately east of South Winchester Boulevard, directly across from the project site are two one-story commercial buildings, three single-family houses, a small office building, and a cluster of two-story townhouses. Immediately south of Williams Road is a gas station and a shopping center with a grocery store and several small retail shops.

4.1.1.3 Existing Land Use Designation and Zoning

The project site is designated *Urban Residential* in the General Plan and zoned *R-M – Multi-Family Residential*.

The *Urban Residential* General Plan land use designation permits medium density residential and a broad range of commercial uses within areas of the City that have existing residential development consistent with the density allowed under this designation (30-95 DU/AC). Within this designation, a floor area ratio (FAR) of 1.0 to 4.0 is permitted with building heights between three and 12 stories. The site is located within the *Winchester Urban Village*, which has a planned development capacity, as noted in Appendix 5 of the General Plan, of up to 2,000 residential units and 4,600 jobs.

Permitted land uses under the R-M zoning are single-family and multiple family residences. The intent is to reserve land for the construction, use, and occupancy of higher density residential development. This zoning district requires minimum building setbacks of 15 feet along the street frontage, 7.5 feet from a side corner[4], and 25 feet from rear boundaries of the site (i.e., property lines that are adjacent to other parcels). Buildings are allowed up to three stories tall, a maximum of 45 feet.

According to the City's Municipal Code, a multiple dwelling unit development requires 1.25 vehicle parking spaces for a one-bedroom unit, 1.7 spaces for a two-bedroom unit, 2.0 spaces for a three-bedroom unit, and 0.15 spaces for each addition bedroom unit over three bedrooms. For every four residential units, one bicycle parking space is required. Retail space would require one parking space per 400 square feet of floor area.

4.1.1.4 Applicable Land Use Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-1.12: Use building design to reflect both the unique character of a specific site and the context of surrounding development and to support pedestrian movement throughout the building site by providing convenient means of entry from public streets and transit facilities where applicable, and by designing ground level building frontages to create an attractive pedestrian environment along building frontages. Unless it is appropriate to the site and context, franchise-style architecture is strongly discouraged.

[4] Side corner of a lot refers to the corner boundary of a property that is near the street frontage.

Policy CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm. Ensure that garage lighting does not impact adjacent uses, and to the extent feasible, avoid impacts of headlights on adjacent land uses.

Policy CD-4.9: For development subject to design review, ensure the design of new or remodeled structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to prevalent building scale, building materials, and orientation of structures to the street).

Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* Vision, goals and policies.

Policy H-3.1: Require the development of housing that incorporates the highest possible level of amenities, fit and finish, urban design and architectural quality.

Policy H-3.2: Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to:

1. Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities.
2. Maximize transit usage.
3. Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit.
4. Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project.
5. Use architectural elements or themes from the surrounding neighborhood when appropriate.
6. Provide residents with access to adequate on- or off-site open space.
7. Create a building scale that does not overwhelm the neighborhood.
8. Be useable by people of all ages, abilities, and needs to the greatest extent possible, without the need for adaptation or specialized design.

4.1.2 Land Use Impacts

4.1.2.1 Thresholds of Significance

For the purposes of this EIR, a land use impact is considered significant if the project would:

- Physically divide an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect;
- Conflict with an applicable habitat conservation plan or natural community conservation plan;

Similar to the site development evaluated in the *San Jose 2040 General Plan FEIR*, the proposed project would result in less than significant land use impacts, as described below.

4.1.2.2 Consistency with the General Plan Land Use Designation and Zoning

The project site is currently designated *Urban Residential* in the City of San José General Plan and is zoned *R-M – Multi-Family Residential*. The current development on the project site, which consists of lower density garden apartments (28 dwelling units per acre), is not consistent with the underlying General Plan designation nor and the Urban Village concept of high density housing and mixed-use development along the Winchester corridor.

Implementation of the proposed project will allow for an increase in residential development on-site and new ground floor retail that will enhance the *Winchester Urban Village* in which it is located, providing both local jobs, services, and housing along a major transportation corridor. The *Winchester Urban Village* plans for the development of up to 2,000 residential units and 4,600 jobs, as specified in the General Plan. The project will result in a net increase of 434 residential units, which is within the planned residential development capacity for the *Winchester Urban Village.* Therefore, the proposed project is consistent with the General Plan land use designation and the development capacity of the *Winchester Urban Village*.

While the project is consistent with the setbacks and parking requirements of the *R-M* zoning district, the proposed building heights would exceed the height limit (45 feet). Therefore, the project would be not consistent with the zoning district and a PD rezoning is proposed. By allowing an increase in building height, the PD zoning would make the project more consistent with the *Urban Residential* General Plan land use designation which allows for an FAR of up to 4.0, which cannot be achieved with a maximum building height of 45 feet. **(Less Than Significant Impact)**

4.1.2.3 Land Use Impacts

Changes in land use are not adverse environmental impacts in and of themselves, but they may create conditions that adversely affect existing uses in the immediate vicinity. The proposed project is a residential/retail mixed-use project located within a designated Urban Village on a major transportation corridor. This area is characterized by single- and multi-family residential, and small and large scale commercial and office establishments.

The San Jose 2040 General Plan FEIR evaluated potential land use impacts resulting from high intensity development within Urban Villages adjacent to low density residential neighborhoods. These impacts could include visual intrusion (privacy) from building height, shade and shadow impacts, noise, litter, and parking spillover into adjacent neighborhoods.

The project, as proposed, is consistent with the General Plan. The *San Jose 2040 General Plan FEIR* concluded that land use conflicts, including impacts to adjacent residential development and existing businesses, can be substantially limited or precluded with implementation of applicable General Plan policies and actions for planning and implementation as well as conformance with identified ordinances and adopted design guidelines. The proposed project will comply with all applicable City policies, actions and ordinances, and will be consistent with adopted design guidelines. Therefore,

the proposed project would have a less than significant impact on surrounding land uses. **(Less Than Significant Impact)**

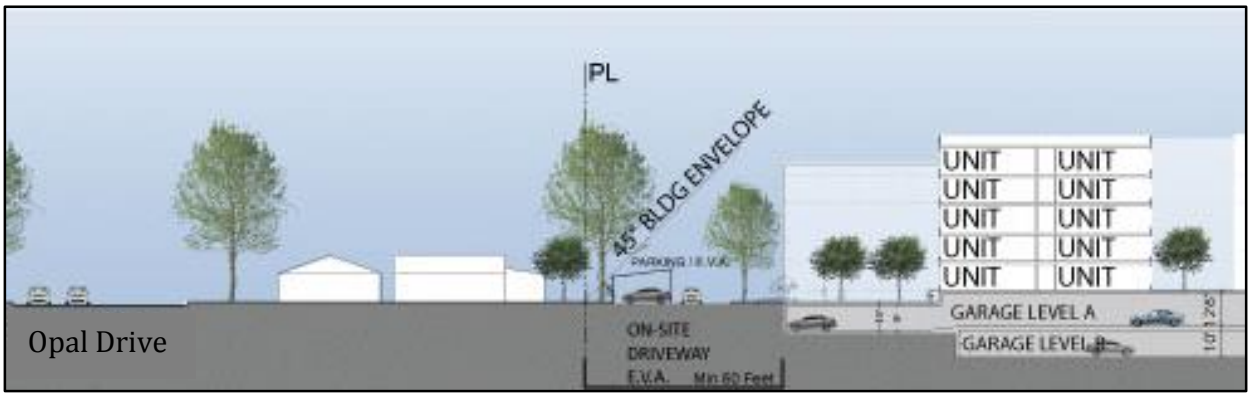
4.1.2.4 Visual Intrusion (Privacy)

Visual intrusion addresses the general concern that windows or balconies from taller buildings will provide visual access to neighboring yards and windows of private residences. There are existing single-family and multi-family residences adjacent to the western and northern boundary of the site.

In urban built-out environments properties are in close proximity to one another and complete privacy is not typical. Nevertheless, implementation of the proposed project would create a greater possibility of visual intrusion from the project site on the adjacent residential properties than what currently exists.

As proposed, the building would be four stories (45 feet) near the western boundary of the site which is consistent with the allowable building height under the existing zoning. The western property line is shared with 11 single-family and multi-family (duplexes) residences on Opal Drive. The building setback from the western property line would be a minimum of 60 feet. Between the building and the property line is a drive aisle and a covered carport. The residences on Opal Drive are, on average, approximately 40 feet from the shared property line and most have ancillary buildings between the houses and the shared property line. Large trees with dense canopies are located on both sides of the shared property line and healthy trees on the project site would be retained as part of the project.

The project includes design features to limit visual intrusion, especially to single-family residential backyards and windows. The proposed residential building will be distanced as far from the single-family residences on Opal Drive as possible, based on the proposed density. In addition, the carport and trees will be located along the shared property line with the residences on Opal Drive. Lastly, the proposed residential building will have an approximately 100-foot setback from the houses on Opal Drive. As shown in the figure below, these design features help to obscure direct views from windows in the proposed residential building toward the existing residences to the west. The carport and trees will act as screens and limit direct line of sight into private open space or windows.



Near the northern property line, the proposed buildings will range from four to five stories (45 to 55 feet) where it shares a property line with five two-story, multi-family residences on Neal Avenue.

The buildings will be six stories tall along Winchester Boulevard, near an existing commercial building. The building setback from the northern property line would be 60 feet. Between the building and the property line is a drive aisle and a covered carport. The multi-family residences on Neal Drive are set back from the shared property line by approximately 45 feet, with the intervening area used for parking. Because the buildings will be set back from each other by more than 100 feet and there are no private open space areas at the rear of the existing apartment buildings, there would be no direct line of sight into private open space areas. Design features, new landscaping, and distance between the buildings will preclude any direct views into windows.

With implementation of the proposed design features, the proposed project would have a less than significant visual intrusion impact. **(Less Than Significant Impact)**

4.1.2.5 Shade and Shadow

The proposed residential buildings would be four to six stories tall with the main roofline reaching a maximum height of 85 feet and decorative features reaching a maximum height of 95 feet. The buildings would be set back approximately 60 feet from the western property line and approximately 80 to 100 feet from residential development located to the north and west, respectively.

To determine the specific shading of the proposed residential building on the surrounding land uses, a shade and shadow analysis was completed by the project architect. Shade and shadow analyses are typically prepared for March 21, June 21, and December 21. This provides an analysis of each season as well as the longest and shortest days of the year, covering the full spectrum of possible shade and shadow issues. Consistent with standard practices, for each day the analysis provides data for 9:00 AM, noon, and 3:00 PM.

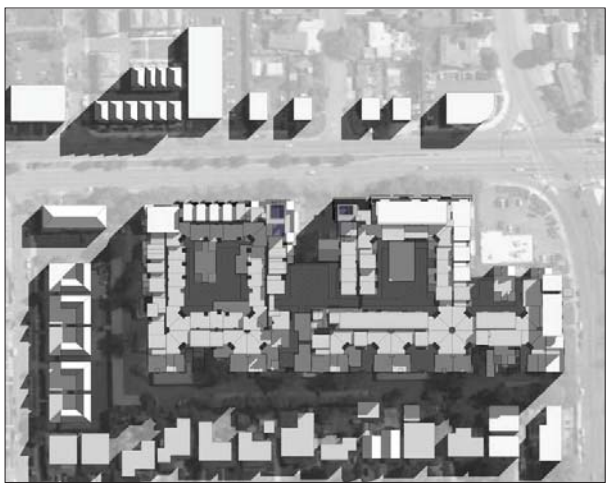
Results of the shade and shadow analysis (shown in Figure 6) show that the project would not substantially shade adjacent properties during each season. During the spring and summer, shadows from the proposed buildings would not extend just beyond the western or northern boundary of the project site. During the winter the proposed residential buildings would shade the backyards and some accessory structures of the residences to the west in the morning hours and portions of the parking lots at the apartments to the north throughout the day.

There are no existing solar collectors on the roofs of houses on adjacent residential properties that would be impacted by shading from the project. Shading from the project would not occur year-round on any property and would not substantially impair the beneficial use of adjacent parcels by the residents. Furthermore, the City of San José does not recognize the shading of private residential open space as a significant land use impact. As a result, implementation of the proposed project would not result in a significant shade and shadow impact. **(Less Than Significant Impact)**

4.1.2.6 Agricultural and Forestry Impacts

The project site is currently developed and designated "Urban and Built-up Land". Therefore, the proposed project would not convert any existing farmland to non-agricultural use. The project site has no conflict with existing zoning for agricultural use, and is not subject to a Williamson Act contract. In addition, there are no forest land or farm land (designated by the California Natural

December 21



9:00 AM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

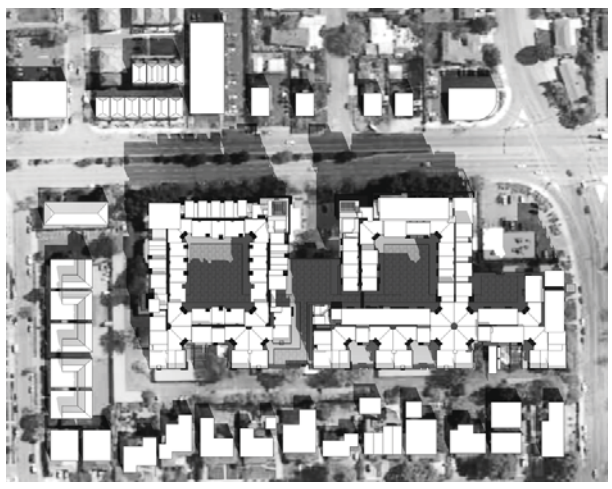
12:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

3:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

March 21

9:00 AM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

12:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY



3:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

June 21

9:00 AM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

12:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

3:00 PM - PROPOSED
NOTE: TREES ALONG PROPERTY LINE NOT SHOWN FOR CLARITY

SHADOW STUDY

FIGURE 6

Resources Agency) on-site or in the project area.[5] The proposed project would not convert forest land to non-forest use or farmland into non-agricultural use. Therefore, implementation of the proposed project would not result in impacts on agricultural or forest resources or loss of designated agricultural land. **(No Impact)**

4.1.2.7 Population and Housing Impacts

According to California Department of Finance 2013 American Community Survey data, San José's population for 2013 was 998,514 persons with 314,210 households with an average of 3.13 persons per household.[6] The U.S. Census Bureau data for San Jose estimates 3.11 persons per household.[7] According to the City's General Plan, the projected population in 2035 would be 1.3 million persons occupying 429,350 households.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

San José currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident) but this trend is projected to reverse with full build-out under the current General Plan.

The site is currently developed with 216 apartment units and is estimated to have approximately 672 residents.

A project can induce substantial population growth by: 1) proposing new housing beyond projected or planned development levels, 2) generating demand for housing as a result of new businesses, 3) extending roads or other infrastructure to previously undeveloped areas, or 4) removing obstacles to population growth (i.e., expanding capacity of a wastewater treatment plant beyond that necessary to serve planned growth).

The General Plan FEIR concluded that the potential for direct growth inducing impacts is minimal because growth planned and proposed as part of the General Plan would consist entirely of development within the City's existing Urban Growth Boundary and Urban Service Area. In addition, the General Plan includes policies and actions that address orderly growth within the City and are aimed at balancing housing supply with job growth.
Implementation of the project will add 434 residential units to the City and increase the population by approximately 1,350 residents. The number of additional residents will be less than one percent

[5] California Natural Resources Agency. *Santa Clara County Important Farmlands 2010.* Accessed September 5, 2014. <ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/scl10.pdf>
[6] State of California Department of Finance. American Community Survey 2013. Households and Families. <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_B01003&prodType=table>Accessed August 13, 2014.
[7] US Census Bureau website. http://quickfacts.census.gov/qfd/states/06/0668000.html Accessed May 26, 2015. This data is used throughout this DEIR when assessing impacts by population.

of the City's population and is part of the planned growth of the City. This increase would not induce a substantial population growth in the City of San José. **(Less than Significant Impact)**

Construction of the proposed project would result in the demolition of 216 market-rate apartment units. Since the proposed project will be replacing the existing residences with 650 new residential units, the loss of the existing residences would temporary displace the current occupants but would not reduce the total number of housing units within the City or necessitate the construction of new housing elsewhere. The current residents would, however, be required to find replacement housing elsewhere. It should be noted that if a project's social and economic effects do not result in physical changes, the effects are not environmental impacts under CEQA. As there is no physical change to the environment that would result from the displacement of residents in the existing apartments, no further discussion is required. **(Less than Significant Impact)**

4.1.2.8 Other Land Use Issues

The proposed project will not conflict with any applicable habitat conservation plan (see Section 4.10, *Biological Resources)* or natural community conservation plan and will not divide an established community. **(No Impact)**

4.1.3 Mitigation and Avoidance Measures

No mitigation is required or proposed.

4.1.4 Conclusion

Implementation of the proposed project will not result in a signification land use impact. **(Less Than Significant Impact)**

4.2 TRANSPORTATION

The following discussion is based on a transportation impact analysis prepared by *Hexagon Transportation Consultants* in October 2014. The report can be found in Appendix A.

4.2.1 Setting

4.2.1.1 Existing Roadway Network

This section summarizes the existing conditions for the major transportation facilities in the vicinity of the site, including the roadway network, transit service, and bicycle and pedestrian facilities. Also included are the existing levels of service of the key intersections and freeway segments in the study area.

Regional Access

Regional access to the project site is provided via Interstate 280 (I-280) and I-880/State Route (SR) 17 as described below.

I-280 is an eight-lane, north-south freeway that extends from Highway 101 (US 101) in San José to I-80 in San Francisco and provides access to the project site via interchanges at Winchester Boulevard.

I-880/SR 17 is a six-lane, north-south freeway that extends from Oakland to I-280 in San Jose, where it transitions to SR 17 to Santa Cruz. I-880 provides access to the project site via interchanges at Stevens Creek Boulevard and Hamilton Avenue.[8]

Local Access

Local access to the project site is provided via Stevens Creek Boulevard, Moorpark Avenue, Williams Road, Hamilton Avenue, San Tomas Expressway, and Winchester Boulevard. These roadways are described below.

Stevens Creek Boulevard is a divided six-lane, east-west roadway that extends from Cupertino east to I-880. At I-880 it transitions to San Carlos Street to downtown San Jose. Site access is provided via Winchester Boulevard.

Moorpark Avenue is a four-lane east-west roadway that runs from Lawrence Expressway to Bascom Avenue. East of Bascom Avenue, Moorpark Avenue transitions into a three-lane one-way roadway to Leigh Avenue.

Williams Road is a two-lane east-west roadway that extends east from Moorpark Avenue to South Daniel Way, just east of Winchester Boulevard. A full access driveway on Williams Road provides direct access to the project site.

[8] The I-880/Stevens Creek Boulevard interchanges have been reconfigured and include two new signals.

Hamilton Avenue is a six-lane east-west roadway between Marathon Drive and Leigh Avenue. West of Marathon Drive, Hamilton Avenue narrows to a four-lane roadway and extends west to Campbell Avenue. East of Leigh Avenue, Hamilton Avenue narrows to a four-lane roadway and extends east to Meridian Avenue.

San Tomas Expressway is a north-south expressway that begins at its interchange with US 101 and extends southward through Santa Clara and San Jose and into Campbell, where it transitions into Camden Avenue at SR 17. Full interchanges are located at US 101 and SR 17. North of El Camino Real, San Tomas Expressway is an eight-lane roadway including carpool lanes (also known as high-occupancy vehicle lanes). The high-occupancy vehicle (HOV) lane designation is in effect in both directions of travel during both the AM and PM peak commute hours. During other times, the lane is open to all users. South of El Camino Real (SR 82), San Tomas Expressway narrows to a six-lane facility including HOV lanes. The HOV lane designation in this segment is in effect for only the peak direction of travel (northbound in the AM and southbound in the PM). San Tomas Expressway provides access to and from the project site via Williams Road.

Winchester Boulevard is a divided six-lane, north-south roadway that extends from Los Gatos to Lincoln Street in Santa Clara. Two right-turn only driveways on Winchester Boulevard provide direct access to the project site from the southbound lanes. Access into the site from the northbound lanes is not possible due to an existing raised median.

4.2.1.2 Existing Pedestrian and Bicycle Facilities

Bicycle Facilities

In the vicinity of the project site, bicycle lanes are limited and discontinuous. Designated bicycle lanes are listed below and shown on Figure 7.

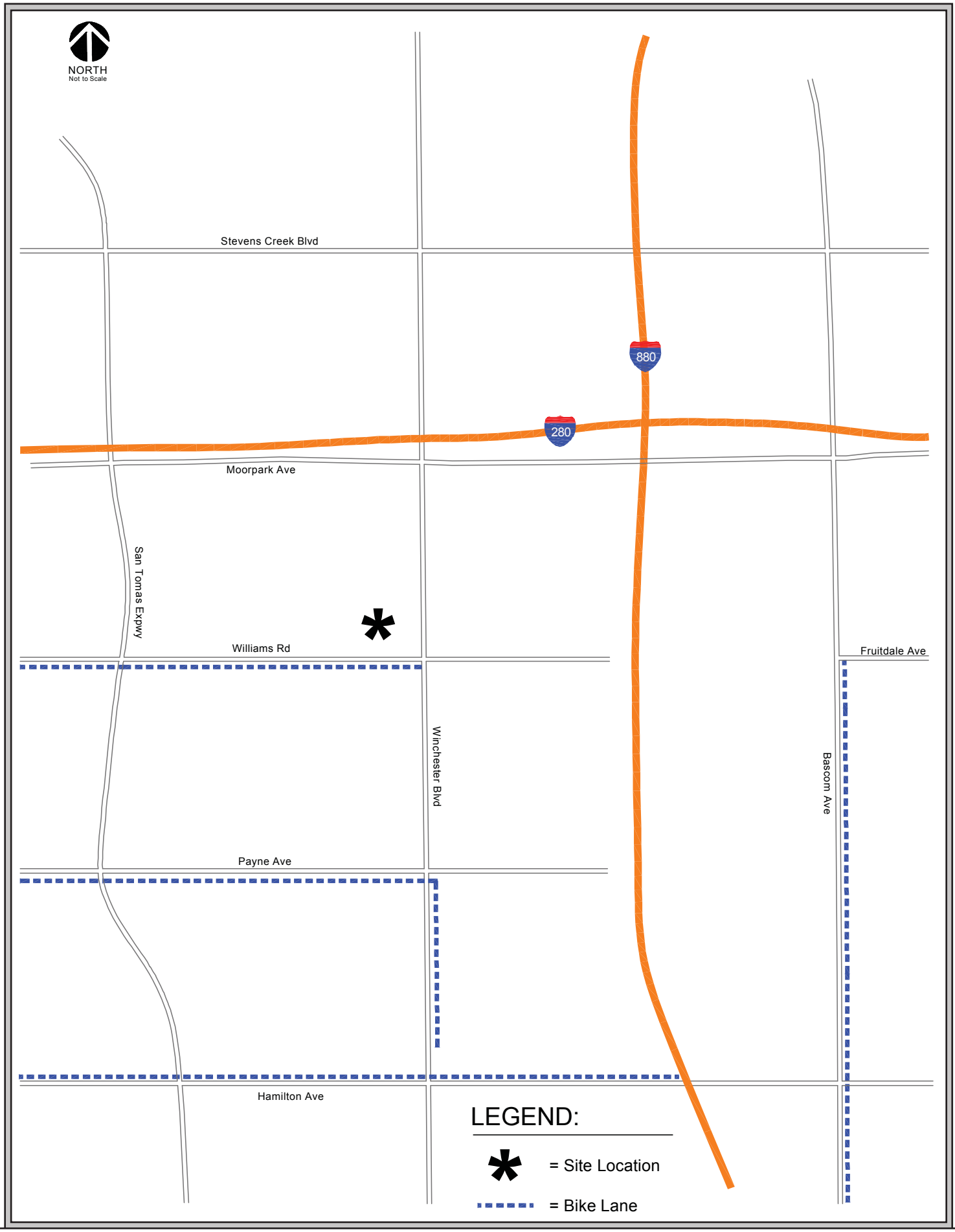
- Williams Road, west of Winchester Boulevard
- Winchester Boulevard, between Payne Avenue and Impala Avenue
- Payne Avenue, west of Winchester Boulevard
- Hamilton Avenue, west of SR 17
- Bascom Avenue, from Fruitdale Avenue to Apricot Avenue

There are no county-designated bike lanes in the vicinity of the project site. On the City of San José's adopted *San José Bike Plan 2020*, there is a Class III Bike Lane[9] planned for Williams Road between Winchester Boulevard and South Daniel Way.

Pedestrian Facilities

Pedestrian facilities in the project area consist primarily of sidewalks along the streets. Williams Road has continuous sidewalks along both sides of the street between Winchester Boulevard and San

[9] A Class III bike route is an on-street facility that shares space with cars. It is usually the right shoulder of the far-right travel lane, with occasional signage.



EXISTING BICYCLE FACILITIES FIGURE 7

Tomas Expressway and between Baywood Avenue and Daniel Way. There are no sidewalks on either side of Williams Road between Winchester Boulevard and Baywood Avenue. Winchester Boulevard has continuous sidewalks along both sides of the street within the vicinity of the project site. Several streets within residential areas surrounding the project site have no sidewalks.

4.2.1.3 Existing Transit Service

Existing transit service in the project area is provided by the Santa Clara Valley Transportation Authority (VTA). VTA bus services are described in Table 4.2-1 below. All transit services are shown on Figure 8.

TABLE 4.2-1
VTA Bus Service in the Project Area

Route	Route Description	Daily Headway (min)
25	De Anza College to Alum Rock Transit Center via Williams Road and Moorpark Avenue.	10-15
60	Winchester Transit Center to Great America via Winchester Boulevard.	15-20

The nearest bus stop locations are located at the Williams Road/Winchester Boulevard intersection.

4.2.1.4 Existing Intersection Operations

Methodology

The impacts of the proposed development were evaluated following the methodologies established by the City of San Jose and the Santa Clara County Congestion Management Program (CMP) which is administered by the Santa Clara Valley Transportation Authority.

The study includes an analysis of AM (7:00 to 9:00 AM) and PM (4:00 to 6:00 PM) peak-hour traffic conditions for 27 signalized intersections and 18 directional freeway segments (discussed in Section 3.2.1.6) within the Cities of San Jose and Campbell.[10] Intersections were selected for study by the traffic engineer if project traffic would add at least 10 trips per lane per hour during one or more peak hours, consistent with adopted CMP methodology. Intersections to which the project would not add 10 or more trips per lane per hour were not studied because the addition of project traffic would not be a sufficient amount to result in the degradation of intersection levels of service.

Traffic conditions were evaluated for existing conditions, background conditions[11], existing plus project conditions, and background plus project conditions to determine if the level of service (LOS) of the local intersections in the project area would be adversely affected by the project generated traffic. LOS is a qualitative description of operating conditions ranging from LOS A, or free-flowing

[10] For study intersections within the City of Campbell, the City of Campbell's transportation impact analysis methodology was utilized.
[11] Background conditions are existing plus approved but not yet constructed development.

EXISTING TRANSIT FACILITIES FIGURE 8

conditions with little or no delay, to LOS F, or jammed conditions with excessive delays. The correlation between average delay and LOS is shown in Table 4.2-2.

TABLE 4.2-2
Intersection Level of Service Definitions Based on Delay

Level of Service	Description	Average Control Delay per Vehicle[12]
A	Operations with very low delay occurring with favorable progression and/or short cycle lengths.	10.0 or less
B	Operations with low delay occurring with good progression and/or short cycle lengths.	10.1 to 20.0
C	Operations with average delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear.	20.1 to 35.0
D	Operations with longer delays due to a combination of unfavorable progression, long cycle lengths, or high V/C[13] ratios. Many vehicles stop and individual cycle failures are noticeable.	35.1 to 55.0
E	Operations with high delay values indicating poor progression, long cycle lengths, and high V/C ratios. Individual cycle failures are frequent occurrences. This is considered to be the limit of acceptable delay.	55.0 to 80.0
F	Operation with delays unacceptable to most drivers occurring due to over saturation, poor progression, or very long cycle lengths.	Greater than 80.0

The study intersections are listed in Table 4.2-3 below and the locations of the study intersections are shown on Figure 9.

Based on the City of San Jose's Transportation Impact Policy (Council Policy 5-3), an acceptable operating level of service is defined as LOS D or better at all City controlled intersections. For County of Santa Clara and CMP intersections, an acceptable level of service is LOS E. Because the project site is very near the City boundary with Campbell, traffic trips associated with the project site would travel through Campbell intersections as well as San Jose intersections. For this reason, the analysis also took into account the acceptable LOS standard for the City of Campbell, which is equivalent to the LOS standard established by the City of San Jose.

Existing LOS of Study Intersections

Analysis of the existing intersection operations concluded that the Stevens Creek Boulevard/San Tomas Expressway intersection currently operates at LOS E during the PM Peak Hour. LOS E is acceptable under the CMP thresholds, but not under City of San Jose thresholds. All other study intersections currently operate at an acceptable LOS. The results of the existing conditions analysis are summarized in Table 4.2-3.

[12] Measured in seconds.
[13] Volume to capacity ratio.

STUDY INTERSECTIONS

FIGURE 9

TABLE 4.2-3
Signalized Study Intersections Level of Service – Existing Conditions

No.	Intersection	AM Peak Hr		PM Peak Hr	
		Delay	LOS	Delay	LOS
1	Winchester Boulevard and Stevens Creek Boulevard * (San José)	35.5	D	50.7	D
2	Santana Row and Stevens Creek Boulevard (San José)	15.1	B	29.7	C
3	Redwood Avenue and Stevens Creek Boulevard (San José)	8.2	A	22.0	C
4	Monroe Street and Stevens Creek Boulevard (San José)	28.8	C	38.6	D
5	I-880 SB Ramps and Stevens Creek Boulevard* (San José)	22.2	C	17.6	B
6	I-880 NB Ramps and Stevens Creek Boulevard* *Future* (San José)	--	--	--	--
7	Bascom Avenue and Parkmoor Avenue (San José)	42.5	D	38.0	D
8	Bascom Avenue and Moorpark Avenue* (San José)	34.1	C	49.7	D
9	Leigh Avenue and Parkmoor Avenue (San José)	26.0	C	21.8	C
10	Leigh Avenue and Moorpark Avenue (San José)	29.2	C	19.7	B
11	Winchester Boulevard and Olin Avenue (San José)	17.6	B	21.5	C
12	Winchester Boulevard and Olsen Drive (San José)	14.3	B	19.9	B
13	Winchester Boulevard and I-280 WB On-Ramp/Tisch Way (San José)	21.7	C	30.0	C
14	South Monroe Street and Moorpark Avenue (San José)	17.8	B	9.5	A
15	Winchester Boulevard and Moorpark Avenue (San José)	37.8	D	38.3	D
16	I-280 EB Off-Ramp and Moorpark Avenue* (San José)	11.2	B	13.1	B
17	Cypress Avenue and Moorpark Avenue (San José)	12.7	B	8.3	A
18	Winchester Boulevard and Williams Road (San José)	38.1	D	34.0	C
19	Winchester Boulevard and Payne Avenue (San José)	39.7	D	37.1	D
20	San Tomas Expressway and Williams Road (San José)	43.8	D	37.1	D
21	San Tomas Expressway and Moorpark Avenue* (San José)	51.8	D	52.8	D
22	San Tomas Expressway and Stevens Creek Boulevard* (San José)	51.1	D	**68.2**	**E**
23	Saratoga Avenue and Moorpark Avenue* (San José)	41.5	D	44.1	D
24	Winchester Boulevard and Hamilton Avenue* (Campbell)	37.3	D	47.6	D
25	SR 17 SB Off-Ramp/Salmar Ave and Hamilton Avenue* (Campbell)	35.8	D	66.5	E
26	Creekside Way and Hamilton Avenue* (Campbell)	22.6	C	24.6	C
27	Creekside Way and SR 17 NB Off-Ramp (Campbell)	11.2	B	15.0	B

* The intersection is subject to Santa Clara County CMP's LOS standards.
Bold entries indicate unacceptable LOS standards.

4.2.1.5 Existing Freeway Operations

Methodology

As prescribed in the CMP guidelines, the level of service for freeway segments is estimated based on vehicle density as shown in Table 4.2-4 below. The CMP defines an acceptable levels of service for freeway segments as LOS E or better.

TABLE 4.2-4
Freeway Level of Service Definitions Based on Density

Level of Service	Description	Density (vehicles/mile/lane)
A	Average operating speeds at the free-flow speed generally prevail. Vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.	0-11
B	Speeds at the free-flow speed are generally maintained. The ability to maneuver within the traffic stream is only slightly restricted.	>11-18
C	Speeds at or near the free-flow speed of the freeway prevail. Freedom to maneuver within the traffic stream is noticeably restricted, and lane changes require more vigilance on the part of the driver.	>18-26
D	Speeds begin to decline slightly with increased flows at this level. Freedom to maneuver within the traffic stream is more noticeably limited.	>26-46
E	At this level, the freeway operates at or near capacity. Operations at this level are volatile, because there are virtually no usable gaps in the traffic stream, leaving little room to maneuver within the traffic stream.	>46-58
F	Vehicular flow breakdowns occur. Large queues form behind breakdown points.	>58

For the purposes of this analysis, the determination of which freeway segments were included in the analysis was made based on the impacts from project traffic. Project traffic was added to the 18 nearest freeway segments to the project site. If project traffic exceeded the capacity threshold at the farthest segments, then additional segments were analyzed. If project traffic did not exceed the capacity threshold at the farthest segments, then only the original segments are included in the analysis.

LOS for key freeway segments in the AM and PM Peak Hours was calculated based on the traffic volumes obtained from VTA's *2010 Monitoring and Conformance Report*. Freeways are State controlled and CMP-monitored facilities and, as a result, the minimal acceptable level of service is LOS E.

Existing LOS of Study Freeway Segments

Analysis of the existing freeway operations concluded that the mixed-flow lanes on 13 of the 18 study segments currently operate at an unacceptable LOS F during at least one peak hour. The result

also show one directional HOV lane segment currently operates at an unacceptable LOS F during at least one peak hour. The freeway segments that are currently impacted are listed below.

- Northbound SR 17, between Hamilton Avenue and I-280 (AM Peak Hour)
- Northbound I-880, between I-280 and Stevens Creek Boulevard (AM Peak Hour)
- Northbound I-880, between Stevens Creek Boulevard and Bascom Avenue (AM Peak Hour)
- Eastbound I-280, between Lawrence Expressway and Saratoga Avenue (PM Peak Hour)
- Eastbound I-280, between I-880 and Meridian Avenue (PM Peak Hour)
- Eastbound I-280, between Meridian Avenue and Bird Avenue (PM Peak Hour)
- Westbound I-280, between Bird Avenue and Meridian Avenue (AM Peak Hour)
- Westbound I-280, between Meridian Avenue and I-880 (AM Peak Hour)
- Westbound I-280, between I-880 and Winchester Boulevard (AM Peak Hour)
- Westbound I-280, between Winchester Boulevard and Saratoga Avenue (AM Peak Hour)
- Westbound I-280, between Saratoga Avenue and Lawrence Expressway (AM Peak Hour)
- Southbound I-880, between The Alameda and Bascom Avenue (PM Peak Hour)
- Southbound I-880, between Bascom Avenue and Stevens Creek Boulevard (AM and PM Peak Hour)

All other study freeway segments operate at an acceptable LOS under existing conditions. The results of the analysis are summarized in Table 4.2-5 below.

TABLE 4.2-5
Study Freeway Segments Level of Service – Existing Conditions

Freeway	Segment	Direction	Peak Hour	LOS – Mixed Lanes	LOS – HOV Lanes
SR 17	Hamilton to I-280	NB	AM	**F**	--
			PM	D	
		SB	AM	C	--
			PM	D	
I-880	I-280 to Stevens Creek Boulevard	NB	AM	**F**	--
			PM	B	
		SB	AM	C	--
			PM	D	
I-880	Stevens Creek Boulevard to N. Bascom Avenue	NB	AM	**F**	--
			PM	D	
		SB	AM	**F**	--
			PM	**F**	
I-880	N. Bascom Avenue to The Alameda	NB	AM	E	--
			PM	D	
		SB	AM	C	--
			PM	**F**	

TABLE 4.2-5 Study Freeway Segments Level of Service – Existing Conditions					
Freeway	**Segment**	**Direction**	**Peak Hour**	**LOS – Mixed Lanes**	**LOS – HOV Lanes**
I-280	Lawrence Expressway to Saratoga Avenue	EB	AM	D	B
			PM	**F**	D
		WB	AM	**F**	E
			PM	D	A
I-280	Saratoga Avenue to Winchester Boulevard	EB	AM	D	A
			PM	E	D
		WB	AM	**F**	E
			PM	D	B
I-280	Winchester Boulevard to I-880	EB	AM	C	B
			PM	D	C
		WB	AM	**F**	E
			PM	D	C
I-280	I-880 to Meridian Avenue	EB	AM	D	A
			PM	**F**	D
		WB	AM	**F**	**F**
			PM	C	B
I-280	Meridian Avenue to Bird Avenue	EB	AM	E	--
			PM	**F**	
		WB	AM	**F**	--
			PM	D	
Bold entries indicate unacceptable LOS.					

4.2.1.6 Background Intersection Operations

Background traffic conditions represent conditions anticipated to exist after completion of the environmental review process but prior to completion of the proposed development. It takes into account planned transportation system improvements that will occur prior to implementation of the proposed project and background traffic volumes. Background peak-hour traffic volumes are calculated by adding estimated traffic from approved but not yet constructed development to the existing conditions. This traffic scenario represents a more congested traffic condition than the existing conditions scenario since it includes traffic from approved but unbuilt projects and projects that are currently under construction. The background conditions analysis is consistent with City of San Jose policy for transportation analyses though it is not required under CEQA, as it is neither a project scenario nor cumulative analysis but represents conditions anticipated to exist at the time the project is built and operational.

Changes to the Roadway Network

This analysis assumes that the transportation network under background conditions would be the same as the existing transportation network with the following exceptions:

Winchester Boulevard and Stevens Creek Boulevard – The planned improvement consists of the addition of a second southbound left-turn lane at the intersection. The second southbound left-turn lane is to be completed with the approved expansion of the Valley Fair Shopping Center. The traffic associated with the Valley Fair expansion is included within the background volumes described below. It should be noted that the intersection of Winchester Boulevard and Stevens Creek Boulevard has been identified as a Protected Intersection by the City of San Jose. The LOS policy specifies that Protected Intersections are locations that have been built to their planned maximum capacity and where expansion of the intersection would have an adverse effect upon other transportation facilities (such as pedestrian, bicycle, and transit systems). The policy acknowledges that exceptions to the City's LOS policy of maintaining a Level of Service D at local intersections will be made for certain Protected Intersections that have been built to their planned maximum capacity.

I-880 and Stevens Creek Boulevard Interchange – Improvement of the I-880 and Stevens Creek Boulevard interchange is currently underway. The interchange and ramps will be reconfigured and will include two new signalized intersections to serve northbound and southbound I-880 traffic that is bound for Stevens Creek Boulevard. In addition, a direct connector ramp from Southbound I-880 to northbound Monroe Street will be provided. The improvements to the interchange will reduce queuing and other operational problems along Stevens Creek Boulevard in the vicinity of the interchange.

Background Intersection Level of Service

The LOS of the study intersections was calculated under background conditions. Analysis of the background intersection operations concluded that the following three intersections would operate at an unacceptable LOS:

No. 1 – Winchester Boulevard and Stevens Creek Boulevard (PM Peak Hour)
No. 4 – Monroe Street and Stevens Creek Boulevard (PM Peak Hour)
No. 22 – San Tomas Expressway and Stevens Creek Boulevard (PM Peak Hour)

All other study intersections would operate at an acceptable LOS. The results of the background conditions analysis are summarized in Table 4.2-6 below.

TABLE 4.2-6
Background Intersection Levels of Service

No.	Intersection	Peak Hour	Existing		Background	
			Delay	LOS	Delay	LOS
1	Winchester Boulevard and Stevens Creek Boulevard * (San José)	AM	35.5	D	36.1	D
		PM	50.7	D	**60.1**	**E**
2	Santana Row and Stevens Creek Boulevard (San José)	AM	15.1	B	15.1	B
		PM	29.7	C	31.1	C
3	Redwood Avenue and Stevens Creek Boulevard (San José)	AM	8.2	A	9.8	A
		PM	22.0	C	29.7	C

TABLE 4.2-6
Background Intersection Levels of Service

No.	Intersection	Peak Hour	Existing		Background	
			Delay	LOS	Delay	LOS
4	Monroe Street and Stevens Creek Boulevard (San José)	AM	28.8	C	34.1	C
		PM	38.6	D	**83.5**	**F**
5	I-880 SB Ramps and Stevens Creek Boulevard* (San José)	AM	22.2	C	22.4	C
		PM	17.6	B	15.9	B
6	I-880 NB Ramps and Stevens Creek Boulevard* *Future* (San José)	AM	--	--	19.2	B
		PM	--	--	20.6	C
7	Bascom Avenue and Parkmoor Avenue (San José)	AM	42.5	D	42.7	D
		PM	38.0	D	47.9	D
8	Bascom Avenue and Moorpark Avenue* (San José)	AM	34.1	C	34.3	C
		PM	49.7	D	50.3	D
9	Leigh Avenue and Parkmoor Avenue (San José)	AM	26.0	C	26.1	C
		PM	21.8	C	21.9	C
10	Leigh Avenue and Moorpark Avenue (San José)	AM	29.2	C	29.4	C
		PM	19.7	B	20.6	B
11	Winchester Boulevard and Olin Avenue (San José)	AM	17.6	B	17.5	B
		PM	21.5	C	20.4	C
12	Winchester Boulevard and Olsen Drive (San José)	AM	14.3	B	21.6	C
		PM	19.9	B	27.5	C
13	Winchester Boulevard and I-280 WB On-Ramp/Tisch Way (San José)	AM	21.7	C	26.5	C
		PM	30.0	C	35.8	D
14	South Monroe Street and Moorpark Avenue (San José)	AM	17.8	B	17.8	B
		PM	9.5	A	9.5	A
15	Winchester Boulevard and Moorpark Avenue (San José)	AM	37.8	D	39.1	D
		PM	38.3	D	39.4	D
16	I-280 EB Off-Ramp and Moorpark Avenue* (San José)	AM	11.2	B	11.6	B
		PM	13.1	B	13.5	B
17	Cypress Avenue and Moorpark Avenue (San José)	AM	12.7	B	12.7	B
		PM	8.3	A	8.3	A
18	Winchester Boulevard and Williams Road (San José)	AM	38.1	D	38.9	D
		PM	34.0	C	34.1	C
19	Winchester Boulevard and Payne Avenue (San José)	AM	39.7	D	39.6	D
		PM	37.1	D	36.8	D
20	San Tomas Expressway and Williams Road (San José)	AM	43.8	D	44.5	D
		PM	37.1	D	37.4	D
21	San Tomas Expressway and Moorpark Avenue* (San José)	AM	51.8	D	52.9	D
		PM	52.8	D	55.0	D
22	San Tomas Expressway and Stevens Creek Boulevard* (San José)	AM	51.1	D	54.2	D
		PM	**68.2**	**E**	**74.8**	**E**

TABLE 4.2-6 Background Intersection Levels of Service						
No.	**Intersection**	**Peak Hour**	**Existing**		**Background**	
			Delay	**LOS**	**Delay**	**LOS**
23	Saratoga Avenue and Moorpark Avenue* (San José)	AM	41.5	D	41.8	D
		PM	44.1	D	44.7	D
24	Winchester Boulevard and Hamilton Avenue* (Campbell)	AM	37.3	D	37.3	D
		PM	47.6	D	47.7	D
25	SR 17 SB Off-Ramp/Salmar Ave and Hamilton Avenue* (Campbell)	AM	35.8	D	37.1	D
		PM	66.5	E	68.5	E
26	Creekside Way and Hamilton Avenue* (Campbell)	AM	22.6	C	22.4	C
		PM	24.6	C	26.4	C
27	Creekside Way and SR 17 NB Off-Ramp (Campbell)	AM	11.2	B	11.3	B
		PM	15.0	B	15.3	B
* The intersection is subject to Santa Clara County CMP's LOS standards. **Bold** entries indicate unacceptable LOS.						

4.2.1.7 Applicable Land Use Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy TR-1.2: Consider impacts on overall mobility and all travel modes when evaluating transportation impacts of new developments or infrastructure projects.

Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.

Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

Policy TR-5.3: The minimum overall roadway performance during peak travel periods should be level of service "D" except for designated areas. How this policy is applied and exceptions to this policy are listed in the following bullets:

- Vehicular Traffic Mitigation Measures. Review development proposals for their impacts on the level of service and require appropriate mitigation measures if development of the project has the potential to reduce the level of service to "E" or worse. These mitigation measures typically involve street improvements. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.

- Area Development Policy. An "area development policy" may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which identifies development impacts and mitigation measures. These policies may take other names or forms to accomplish the same purpose. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year.

- Small Projects. Small projects may be defined and exempted from traffic analysis per the City's transportation policies.

- Downtown. In recognition of the unique position of the Downtown as the transit hub of Santa Clara County, and as the center for financial, business, institutional and cultural activities, development within the Downtown is exempted from traffic mitigation requirements. Intersections within and on the boundary of this area are also exempted from the level of service "D" performance criteria.

- Special Strategy Areas. In recognition of the unique characteristics and particular goals of Special Strategy Areas, intersections identified as Protected Intersections within these areas, may be exempt from traffic mitigation requirements. Special Strategy Areas are identified in the City's adopted General Plan and include Urban Villages, Transit Station Areas, and Specific Plan Areas.

- Protected Intersections. In recognition that roadway capacity-enhancing improvement measures can impede the City's ability to encourage infill, preserve community livability, and promote transportation alternatives that do not solely rely on automobile travel, specially designated Protected Intersections are exempt from traffic mitigation measures. Protected Intersections are located in Special Planning Areas where proposed developments causing a significant LOS impact at a Protected Intersection are required to construct multimodal (non-automotive) transportation improvements in one of the City's designated Community Improvement Zones. These multimodal improvements are referred to as off-setting improvements and include improvements to transit, bicycle, and/or pedestrian facilities.

4.2.2 Environmental Checklist and Discussion

For the purpose of this EIR, a traffic impact is considered significant if the project would:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under existing or background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more; or

- Cause the level of service at a CMP or County intersection to degrade from an acceptable LOS E or better under existing or background conditions to an unacceptable LOS F under existing plus project or background plus project conditions; or
- At any CMP or County intersection that is already an unacceptable LOS F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more; or
- Cause the level of service on any freeway segment to degrade from an acceptable LOS E or better under existing or background conditions to an unacceptable LOS F under project conditions; or
- Add more than one percent of the existing freeway capacity to any freeway segment operating at LOS F under existing conditions; or
- Create an operational safety hazard; or
- Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.

4.2.2.1 Impact Criteria

City of San Jose – Local Signalized Intersections

Based on City of San Jose criteria (Council Policy 5-3), a project would cause a significant impact at a signalized intersection if the additional project traffic caused one of the following:

- Cause the level of service at any local intersection to degrade from an acceptable LOS D or better under existing or background conditions to an unacceptable LOS E or F under existing plus project or background plus project conditions; or
- At any local intersection that is already an unacceptable LOS E or F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.
- The level of service at a designated Protected Intersection is an unacceptable LOS E or F under background conditions and the addition of project trips causes both the critical-movement delay at the intersection to increase by two or more sections *and* the V/C to increase by one-half percent or more.

This criterion, with the exception of the Protected intersection criteria, is equivalent to the criteria used for Campbell signalized intersections.

CMP and Santa Clara County Expressway Intersections

Based on CMP criteria, a project would cause a significant impact at a CMP or County Expressway intersection if the additional project traffic caused one of the following:

- Cause the level of service at any CMP/County intersection to degrade from an acceptable LOS E or better under existing or background conditions to an unacceptable LOS F under existing plus project or background plus project conditions; or

- At any CMP/County intersection that is already an unacceptable LOS F under existing or background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

CMP – Freeway Segments

Based on CMP criteria, a project would cause a significant impact to a freeway segment if the additional project traffic caused one of the following:

- Cause the level of service on any freeway segment to degrade from an acceptable LOS E or better under existing or background conditions to an unacceptable LOS F under existing plus project or background plus project conditions; or
- Add more than one percent of the existing freeway capacity to any freeway segment operating at LOS F under existing or background conditions.

4.2.2.2 Trip Generation Estimates

Traffic trips generated by the proposed project were estimated using the rates recommended by the City of San Jose. A summary of the project trip generation estimates is shown in Table 4.2-7 below.

TABLE 4.2-7
Project Trip Generation Estimates

Land Use	Daily Trips	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Proposed Land Uses							
Apartments	4,092	63	256	319	250	134	383
Retail	483	5	2	7	11	12	23
Existing Land Uses							
Apartments	903	17	64	81	42	30	72
Net New Trips	3,672	51	194	245	218	116	334

4.2.2.3 Existing Plus Project Intersection Operations

Changes to the Roadway Network

This analysis assumes that the roadway network under existing plus project conditions would be the same as the existing roadway network.

Existing Plus Project LOS Analysis

The LOS of the study intersections was calculated under project conditions by adding the net new project trips from the proposed development to the existing conditions. Analysis of the existing plus project intersection operations concluded that the Stevens Creek Boulevard/San Tomas Expressway intersection would continue to operate at an unacceptable LOS E in the PM Peak Hour. All other

study intersections would operate at an acceptable LOS. The results of the existing plus project conditions analysis are summarized in Table 4.2-8 below.

TABLE 4.2-8
Existing Plus Project Intersection Levels of Service

No.	Intersection	Peak Hour	Existing		Existing + Project	
			Delay	LOS	Delay	LOS
1	Winchester Boulevard and Stevens Creek Boulevard * (San José)	AM	35.5	D	35.6	D
		PM	50.7	D	51.6	D
2	Santana Row and Stevens Creek Boulevard (San José)	AM	15.1	B	15.1	B
		PM	29.7	C	29.6	C
3	Redwood Avenue and Stevens Creek Boulevard (San José)	AM	8.2	A	8.2	A
		PM	22.0	C	21.9	C
4	Monroe Street and Stevens Creek Boulevard (San José)	AM	28.8	C	29.5	C
		PM	38.6	D	39.1	D
5	I-880 SB Ramps and Stevens Creek Boulevard* (San José)	AM	22.2	C	22.2	C
		PM	17.6	B	18.2	B
6	I-880 NB Ramps and Stevens Creek Boulevard* *Future* (San José)	AM	--	--	--	--
		PM	--	--	--	--
7	Bascom Avenue and Parkmoor Avenue (San José)	AM	42.5	D	42.6	D
		PM	38.0	D	38.5	D
8	Bascom Avenue and Moorpark Avenue* (San José)	AM	34.1	C	34.5	C
		PM	49.7	D	50.7	D
9	Leigh Avenue and Parkmoor Avenue (San José)	AM	26.0	C	26.0	C
		PM	21.8	C	21.7	C
10	Leigh Avenue and Moorpark Avenue (San José)	AM	29.2	C	29.0	C
		PM	19.7	B	19.6	B
11	Winchester Boulevard and Olin Avenue (San José)	AM	17.6	B	17.3	B
		PM	21.5	C	19.5	B
12	Winchester Boulevard and Olsen Drive (San José)	AM	14.3	B	14.0	B
		PM	19.9	B	19.6	B
13	Winchester Boulevard and I-280 WB On-Ramp/Tisch Way (San José)	AM	21.7	C	21.7	C
		PM	30.0	C	30.4	C
14	South Monroe Street and Moorpark Avenue (San José)	AM	17.8	B	18.5	B
		PM	9.5	A	10.3	B
15	Winchester Boulevard and Moorpark Avenue (San José)	AM	37.8	D	38.0	D
		PM	38.3	D	38.5	D
16	I-280 EB Off-Ramp and Moorpark Avenue* (San José)	AM	11.2	B	11.3	B
		PM	13.1	B	13.2	B
17	Cypress Avenue and Moorpark Avenue (San José)	AM	12.7	B	12.8	B
		PM	8.3	A	8.9	A
18	Winchester Boulevard and Williams Road (San José)	AM	38.1	D	46.0	D
		PM	34.0	C	37.9	D
19	Winchester Boulevard and Payne Avenue (San José)	AM	39.7	D	39.6	D
		PM	37.1	D	36.9	D

TABLE 4.2-8 Existing Plus Project Intersection Levels of Service						
No.	**Intersection**	**Peak Hour**	**Existing**		**Existing + Project**	
			Delay	**LOS**	**Delay**	**LOS**
20	San Tomas Expressway and Williams Road (San José)	AM PM	43.8 37.1	D D	46.0 37.9	D D
21	San Tomas Expressway and Moorpark Avenue* (San José)	AM PM	51.8 52.8	D D	52.2 53.5	D D
22	San Tomas Expressway and Stevens Creek Boulevard* (San José)	AM PM	51.1 **68.2**	D **E**	51.2 **69.0**	D **E**
23	Saratoga Avenue and Moorpark Avenue* (San José)	AM PM	41.5 44.1	D D	42.0 44.6	D D
24	Winchester Boulevard and Hamilton Avenue* (Campbell)	AM PM	37.3 47.6	D D	37.7 47.8	D D
25	SR 17 SB Off-Ramp/Salmar Ave and Hamilton Avenue* (Campbell)	AM PM	35.8 66.5	D E	35.9 67.0	D E
26	Creekside Way and Hamilton Avenue* (Campbell)	AM PM	22.6 24.6	C C	22.6 24.7	C C
27	Creekside Way and SR 17 NB Off-Ramp (Campbell)	AM PM	11.2 15.0	B B	11.2 15.1	B B
* The intersection is subject to Santa Clara County CMP's LOS standards. **Bold** entries indicate unacceptable LOS.						

While the San Tomas Expressway/Stevens Creek Boulevard intersection would continue to operate at an unacceptable LOS, the additional project generated traffic would not cause any intersection LOS to degrade below an acceptable level. Therefore, implementation of the proposed project would have a less than significant impact on the aforementioned intersection during both of the peak hours under existing plus project conditions. **(Less Than Significant Impact)**

4.2.2.4 Background Plus Project Intersection Operations

Changes to the Roadway Network

This analysis assumes that the roadway network under background plus project conditions would be the same as under background conditions (please refer to Section 4.2.1.5).

Background Plus Project LOS Analysis

The LOS of the study intersections was calculated under background plus project conditions by adding the new project trips from the proposed development to the background conditions. Analysis of the background plus project intersection operations concluded that the following intersections would operate at an unacceptable LOS:

No. 1 – Winchester Boulevard and Stevens Creek Boulevard (PM Peak Hour)
No. 4 – Monroe Street and Stevens Creek Boulevard (PM Peak Hour)
No. 21 – San Tomas Expressway and Moorpark Avenue (PM Peak Hour)

All other study intersections would operate at an acceptable LOS. The results of the background plus project conditions analysis are summarized in Table 4.2-9 below.

TABLE 4.2-9
Signalized Study Intersections Level of Service – Background Plus Project Conditions

No.	Intersection	Peak Hour	Background		Background Plus Project			
			Delay	LOS	Delay	LOS	Δ in Critical V/C	Δ in Critical Delay
1	Winchester Boulevard and Stevens Creek Boulevard * (San José)	AM	36.1	D	36.2	D	0.1	0.003
		PM	**60.1**	**E**	**62.4**	**E**	**5.1**	**0.019**
2	Santana Row and Stevens Creek Boulevard (San José)	AM	15.1	B	14.9	B	0.0	0.001
		PM	31.1	C	31.0	C	0.0	0.003
3	Redwood Avenue and Stevens Creek Boulevard (San José)	AM	9.8	A	9.8	A	0.0	0.001
		PM	29.7	C	29.6	C	0.0	0.003
4	Monroe Street and Stevens Creek Boulevard (San José)	AM	34.1	C	34.8	C	0.8	0.011
		PM	**83.5**	**F**	**87.2**	**F**	**5.4**	**0.014**
5	I-880 SB Ramps and Stevens Creek Boulevard* (San José)	AM	22.4	C	22.5	C	0.1	0.002
		PM	15.9	B	16.6	B	0.9	0.010
6	I-880 NB Ramps and Stevens Creek Boulevard* *Future* (San José)	AM	19.2	B	19.2	B	0.0	0.000
		PM	20.6	C	20.6	C	0.0	0.001
7	Bascom Avenue and Parkmoor Avenue (San José)	AM	42.7	D	42.8	D	0.2	0.004
		PM	47.9	D	48.7	D	1.5	0.015
8	Bascom Avenue and Moorpark Avenue* (San José)	AM	34.3	C	34.6	C	0.2	0.014
		PM	50.3	D	51.4	D	2.3	0.018
9	Leigh Avenue and Parkmoor Avenue (San José)	AM	26.1	C	26.1	C	0.0	0.003
		PM	21.9	C	21.7	C	-0.3	0.012
10	Leigh Avenue and Moorpark Avenue (San José)	AM	29.4	C	29.2	C	-0.3	0.008
		PM	20.6	B	20.5	C	-0.1	0.004
11	Winchester Boulevard and Olin Avenue (San José)	AM	17.5	B	17.3	B	-0.2	0.007
		PM	20.4	C	20.2	C	-0.1	0.004
12	Winchester Boulevard and Olsen Drive (San José)	AM	21.6	C	21.3	C	-0.3	0.007
		PM	27.5	C	27.3	C	-0.1	0.008
13	Winchester Boulevard and I-280 WB On-Ramp/Tisch Way (San José)	AM	26.5	C	26.8	C	1.0	0.018
		PM	35.8	D	36.9	D	2.1	0.027
14	South Monroe Street and Moorpark Avenue (San José)	AM	17.8	B	18.5	B	0.8	0.020
		PM	9.5	A	10.3	B	1.3	0.015
15	Winchester Boulevard and Moorpark Avenue (San José)	AM	39.1	D	39.3	D	0.2	0.015
		PM	39.4	D	39.6	D	0.2	0.009

TABLE 4.2-9
Signalized Study Intersections Level of Service – Background Plus Project Conditions

No.	Intersection	Peak Hour	Background		Background Plus Project			
			Delay	LOS	Delay	LOS	Δ in Critical V/C	Δ in Critical Delay
16	I-280 EB Off-Ramp and Moorpark Avenue* (San José)	AM	11.6	B	11.7	B	0.0	0.003
		PM	13.5	B	13.6	B	0.0	0.013
17	Cypress Avenue and Moorpark Avenue (San José)	AM	12.7	B	12.7	B	0.1	0.002
		PM	8.3	A	8.9	A	0.8	0.010
18	Winchester Boulevard and Williams Road (San José)	AM	38.9	D	48.1	D	13.9	0.071
		PM	34.1	C	38.0	D	3.5	0.049
19	Winchester Boulevard and Payne Avenue (San José)	AM	39.6	D	39.5	D	0.0	0.002
		PM	36.8	D	36.6	D	-0.1	0.005
20	San Tomas Expressway and Williams Road (San José)	AM	44.5	D	46.9	D	4.5	0.019
		PM	37.4	D	38.3	D	0.3	0.002
21	San Tomas Expressway and Moorpark Avenue* (San José)	AM	52.9	D	53.3	D	0.5	0.004
		PM	55.0	D	**55.8**	**E**	**1.3**	**0.011**
22	San Tomas Expressway and Stevens Creek Boulevard* (San José)	AM	54.2	D	54.3	D	0.1	0.002
		PM	**74.8**	**E**	**75.7**	**E**	**1.9**	**0.007**
23	Saratoga Avenue and Moorpark Avenue* (San José)	AM	41.8	D	42.4	D	0.6	0.008
		PM	44.7	D	45.1	D	0.3	0.004
24	Winchester Boulevard and Hamilton Avenue* (Campbell)	AM	37.3	D	37.7	D	7.3	0.014
		PM	47.7	D	47.8	D	0.3	0.008
25	SR 17 SB Off-Ramp/Salmar Ave and Hamilton Avenue* (Campbell)	AM	37.1	D	37.2	D	0.1	0.002
		PM	68.5	E	69.1	E	2.1	0.009
26	Creekside Way and Hamilton Avenue* (Campbell)	AM	22.4	C	22.5	C	0.0	0.000
		PM	26.4	C	26.8	C	0.4	0.007
27	Creekside Way and SR 17 NB Off-Ramp (Campbell)	AM	11.3	B	11.3	B	0.0	0.002
		PM	15.3	B	15.4	B	0.0	0.007

* The intersection is subject to Santa Clara County CMP's LOS standards.
Bold entries indicate unacceptable LOS.

Implementation of the proposed project would result in the following intersection impacts under background plus project conditions:

- Winchester Boulevard and Stevens Creek Boulevard (No. 1) – The LOS would remain at E in the PM Peak Hour with a 5.1 second increase in critical delay and a 0.019 increase in V/C.
- Monroe Street and Stevens Creek Boulevard (No, 4) – The LOS would remain at F in the PM Peak Hour with a 5.4 second increase in critical delay and a 0.014 increase in V/C.
- San Tomas Expressway and Moorpark Avenue (No. 21) - The LOS would degrade from D to E in the PM Peak Hour.

IMPACT TRAN-1: Implementation of the proposed project would have a significant impact on three study intersections under background plus project conditions. **(Significant Impact)**

4.2.2.5 Background Plus Project Freeway Segment Operations

Freeway segments were analyzed during AM and PM Peak Hours to calculate the volume of project traffic added to the nearby freeways.

Analysis of the background plus project freeway operations (Table 9 of Appendix A) concluded that the proposed project would not increase traffic volumes by more than one percent on any of the freeway study segments. Therefore, based on the CMP freeway segment criteria, implementation of the proposed project would not have a significant impact on nearby freeways. **(Less Than Significant Impact)**

4.2.2.6 Site Access and On-Site Circulation

The proposed project is located on the northwest corner of Winchester Boulevard and Williams Road. The project site will continue to be served by two existing right-turn only driveways along Winchester Boulevard and one full-access driveway along Williams Road. No new access points are proposed.

According to the site plan, an on-site drive aisle will run along the northern and western perimeter of the project site connecting the northern most project driveway on Winchester Boulevard and the Williams Road driveway. Surface parking will be provided along one side of the drive aisle. A new two-level below-grade parking garage will be constructed as part of the project. Two access points will provide access directly from Winchester Boulevard. Two additional access points along the drive aisle will provide access the parking garage from both Winchester Boulevard and Williams Road. The ability to access the parking garage from both Winchester Boulevard and Williams Road should result in equal usage of both access points and avoid the concentration of project traffic at one particular driveway. The southern driveway on Winchester Boulevard will also provide access to the parking garage.

Based on the proposed site plan, on-site vehicular circulation would be efficient (i.e., easy to navigate) with simple rectangular circulation aisles within the parking garage. It does appear that circulation along one drive aisle within the garage will be inhibited by a column and will create a dead-end aisle. Residents and visitors circulating through the garage will be unable to complete a simple turn around when confronting the column. In addition, vehicles parked in spaces adjacent to the column would be unable to back out of parking spaces. It is recommended that the parking space adjacent to the column be removed to allow for turnaround space.

All surface parking and parking spaces within the garage are shown to be 90 degree parking stalls. Drive aisles within the garage are shown on the site plan to be 26 feet wide at locations where parking is provided along both sides of the drive aisle, and 30 feet wide where parking spaces are provided along one side of the drive aisle only and along the access road that transverses the site.

These are typical drive aisle widths, which allow for adequate circulation and maneuvering with 90-degree parking stalls.
Overall, the site plan exhibits adequate site access and on-site circulation for motor vehicles. No safety impacts would result from the proposed site access and circulation. **(Less Than Significant Impact)**

4.2.2.7 Pedestrian/Bicycle Facilities and Transit Operations

Pedestrian and Bicycle Facilities

The proposed project will generate new demand for pedestrian and bicycle facilities in the immediate project area.

The primary pedestrian traffic generated by the project would be residents walking to and from nearby retail establishments, the bus stops on Winchester Boulevard, and children walking to nearby schools. Crosswalks with pedestrian signal heads are located at all signalized intersections in the study area. With the exception of Williams Road east of Winchester Boulevard, most surrounding streets in the vicinity of the project site have sidewalks on both sides of the street.

The Pedestrian Volume Signal Warrant [Manual on Uniform Traffic Control Devices (MUTCD) Warrant #4], was checked at the intersections of Williams Road/Cypress Avenue and Williams Road/Monroe Street since these unsignalized intersections provide access to nearby schools. The warrant provides an indication whether pedestrian volumes are, or would be, sufficient to justify installation of a traffic signal. The results of the pedestrian volumes signal warrant checks indicate that the unsignalized study intersections have and are projected to continue to have pedestrian volumes that fall below the thresholds that warrant signalization.

Thus, the existing network of pedestrian facilities in the immediate vicinity of the project site would provide good connectivity between the project site and pedestrian destinations, adequately serving the anticipated pedestrian demand. As a result, the project would have no impact on pedestrian facilities in the project area. **(No Impact)**

There are currently no existing bicycle lanes in the vicinity of the project site, though some roadways are designated bike routes. In addition, there is a planned bicycle lane on Williams Street, east of Winchester Boulevard. The proposed project will not alter existing bicycle facilities and will not conflict with existing or planned bicycle facilities. The project will provide secure bicycle parking for site users. Therefore, the proposed project will not result in unsafe conditions for bicyclists. **(Less Than Significant Impact)**

Transit Operations

The project site is currently served by fixed route bus services provided by the VTA. Due to the location of existing bus stops in relation to the proposed residential development, it is estimated that

the project would generate approximately seven new AM Peak Hour and 10 PM Peak hour transit riders.[14]

Currently VTA bus routes that serve the project area are operating below capacity. As a result, existing bus services can accommodate an increase in ridership demand resulting from the proposed project. The proposed project will not alter existing transit facilities or conflict with the operation of existing or planned facilities, including the planned Bus Rapid Transit (BRT) line on Stevens Creek Boulevard. Therefore, the proposed project will have a less than significant impact on transit operations. **(Less Than Significant Impact)**

4.2.2.8 Operational Transportation Issues Not Covered Under CEQA

Parking

The California Court of Appeal has held that parking is not part of the permanent physical environment, that parking conditions change over time as people change their travel patterns, and that unmet parking demand created by a project need not be considered a significant environmental impact under CEQA unless it would cause significant secondary effects.[15] Similarly, the December 2009 amendments to the State CEQA Guidelines (which were effective March 18, 2010) removed parking from the CEQA Environmental Checklist (Appendix G of the State CEQA Guidelines) as an environmental factor to be considered under CEQA.

Parking deficits may be associated with secondary physical environmental impacts, such as air quality and noise effects, caused by congestion resulting from drivers circling as they look for a parking space. These secondary effects are, however, a temporary condition. Therefore, any secondary environmental impacts that might result from a shortfall in parking in the vicinity of the proposed Project are considered less than significant.

While a lack of parking would not have a significant environmental impact under CEQA, it could result in an operational impact to on-site and off-site circulation. For this reason, as assessment of the parking plan for the proposed project is provided below.

According to the City of San Jose Municipal Code (Chapter 20.90.060, Number of Off-Street Parking Required, Table 20-210), the required parking for multi-family dwelling units are based on the number of bedrooms per unit and the type of parking facility. For all open parking (parking not directly attached to a unit), the number of required parking spaces is 1.25 spaces per unit for one-bedroom units and 1.7 spaces per unit for two-bedroom units. Additionally, for ground floor commercial uses within Urban Villages, the City of San Jose requires a minimum of 1 parking space per 400 square feet of commercial space (Municipal Code 20.90.200.C). Using the above rates, the proposed project would be required to provide 910 parking spaces.

[14] This estimate is based on the professional judgment of the transportation engineer for this type and density of residential/mixed-use development which assumes a three percent ride share for transit.

[15] *San Franciscans Upholding the Downtown Plan v. the City and County of San Francisco* (2002) 102 Cal.App.4th 656.

The Americans with Disabilities Act (ADA) requires developments to provide eight accessible parking spaces for developments providing 301 to 400 parking spaces, and 20 accessible parking spaces for the first 1,000 parking spaces plus one for each 100 regular parking spaces, or fraction thereof, for developments providing over 1,000 parking spaces. Based on ADA and City of San Jose parking requirements, the 910 parking spaces required must include a minimum of 20 accessible parking spaces, with at least two of them being van accessible stalls.

The project proposes 920 parking spaces. The current plan does not identify which spaces will be accessible parking spaces. With the designation of the required accessible parking stalls at the PD Permit stage, the proposed parking supply would be adequate to satisfy both the City of San Jose and ADA parking requirements.

Effects on Surrounding Residential Streets

The proposed project site is adjacent to one major thoroughfare, Winchester Boulevard, and a connector street, Williams Road.[16] As proposed, direct access to the project site would be provided via existing driveways along both Winchester Boulevard and Williams Road. It is estimated that the majority of the project traffic would utilize the major thoroughfares for travel. Some project traffic could, however, utilize surrounding local roadways and residential streets for travel between the project site and other nearby destinations, such as schools, parks, and shopping centers. For this reason, an evaluation of the effects of project traffic along four surrounding roadways was completed. The study roadway segments include:

1. Cypress Avenue, between Williams Road and Rosedale Drive
2. Monroe Street, between Williams Road and Neal Avenue
3. Williams Road, between Cypress Avenue and Winchester Boulevard[17]
4. Williams Road, between Winchester Boulevard and Baywood Avenue

The evaluation consists of a roadway segment analysis to quantify the potential change in traffic volumes along the study roadway segments as a result of the proposed project. For the evaluation, the existing and projected daily traffic volumes with the project were compared to acceptable volume thresholds for each roadway segment to determine if the projected change in traffic volume would be significant.

Unlike the intersection level of service analysis methodology, which has established impact thresholds for determining the significance of project impacts under CEQA, the analyses contained in this section are based on professional judgment in accordance with the standards and methods employed by the traffic engineering community. Several studies have been made regarding the indirect impacts of traffic on residential neighborhoods. The variables affecting these impacts include traffic volumes, type, or makeup, of traffic (i.e. passenger cars, trucks, motorcycles, emergency vehicles, etc.), traffic speed, perception of through traffic as a percentage of total traffic,

[16] Williams Road is considered a connector street west of Winchester Boulevard. East of Winchester Boulevard, Williams Road is a residential street with no centerline or sidewalks.
[17] While Williams Road is not classified as a residential street between Winchester Boulevard and San Tomas Expressway, this roadway segment was included because it traverses a residential neighborhood.

adequacy of street alignment (i.e., horizontal and vertical curvature), accident experience, on-street parking, residential dwelling setbacks from the street, pedestrian traffic, and street pavement conditions (which would add to traffic noise as the pavement deteriorates). Other factors that may be a contributor to neighborhood nuisance levels include socio-economic status of the neighborhood, and expectations of the residents regarding traffic volumes; however, these are beyond the purview of CEQA and are provided here for informational purposes only.

Existing Surrounding Roadway Characteristics

Each of the four selected surrounding roadway segments provide access to not only the residential land uses that line each street but also provide a connection between and/or directly to major arterials (Moorpark Avenue and San Tomas Expressway). Therefore, existing cut-through or commercial traffic is present along each of the streets. A brief description of each of the selected surrounding roadways is provided below:

- Cypress Avenue: Cypress Avenue is a two-lane roadway that runs between Williams Road and Moorpark Avenue west of the site. The roadway is surrounded by residential land uses, with a school (Lynhaven Elementary School) located just north of Williams Road. Cypress Avenue provides an alternative north-south connection between Moorpark Avenue and Williams Road. The posted speed limit on the study segment of Cypress Avenue is 25 miles per hour (mph).

- South Monroe Street: South Monroe Street is a two-lane north-south roadway that, along with several other residential streets, provides a connection between Moorpark Avenue and Williams Road east of the site. The posted speed limit along Monroe Street is 25 mph. On-street parking is allowed on both sides of Monroe Street. Monroe Middle School is located at the southern termination point of Monroe Street, just south of Williams Road.

- Williams Road: Williams Road is a two-lane east-west roadway that extends east from Moorpark Avenue to South Daniel Way, with access to San Tomas Expressway. A driveway along Williams Road provides direct access to the project site.

Estimated Project Traffic on Surrounding Roadways

The effects of project traffic on the each of the surrounding streets was evaluated based on field observations, the collection of traffic volume and speed data collected in September 2014, and projections of the additional project generated traffic. Table 4.2-10 presents a summary of existing and projected traffic volumes along each of the roadways. The speed surveys are summarized in Table 4.2-11 below.

TABLE 4.2-10 Average Daily Traffic Volumes Along Surrounding Roadways					
Roadway Segment	**Direction**	**Existing Trips**	**Project Trips**	**Existing Plus Project**	**Percentage Change**
Cypress between Rosedale and Williams	NB	743	0	743	0
	SB	826	116	942	14
	Total	1,569	116	1,685	
Monroe between Williams and Neal	NB	635	131	766	21
	SB	638	131	769	21
	Total	1,273	262	1,535	
Williams between Cypress and Winchester	EB	3,775	467	4,242	12
	WB	3,402	351	3,753	10
	Total	7,177	818	7,995	
Williams between Winchester and Baywood	EB	1,338	144	1,482	11
	WB	1,251	144	1,395	12
	Total	2,589	288	2,877	

TABLE 4.2-11 Speed Survey Along Surrounding Roadways				
Roadway Segment	**Speed Limit**	**85th Percentile Speed**		
		Northbound/ Eastbound	**Southbound/ Westbound**	**Average Both Directions**
Cypress between Rosedale and Williams	25	32.4	30.6	31.5
Monroe between Williams and Neal	25	32.2	32.7	32.5
Williams between Cypress and Winchester	35	39.1	39.6	39.4
Williams between Winchester and Baywood	25	34.7	33.1	33.9

Cypress Avenue and Monroe Street

Cypress Avenue and Monroe Street could be classified as residential streets, given that they serve residential land uses and are fairly narrow. General guidelines regarding threshold volumes (average daily traffic) pertaining to residential streets have been recommended in several studies and reference material including the Highway Capacity Manual (HCM). There is variation in these accepted threshold volumes, but in general, residential streets have the primary function of providing access to immediately adjacent land, with the secondary function of traffic movement. One lane of traffic in each direction is the standard for residential streets. A residential (or local) street is defined by the City of San Jose as being less than 60 feet wide (48 and 56 feet right-of-way) and average daily traffic (ADT) volumes typically ranging from 50 to 2,000 vehicles.

The 24-hour tube counts revealed that the existing traffic volumes along Cypress Avenue and Monroe Street are less than 1,600 daily vehicles. It is estimated that the project would result in the

addition of approximately 116 daily trips to Cypress Avenue and 262 daily trips to Monroe Street. The addition of the estimated daily trips from the proposed project to both streets will result in daily traffic volumes that are still within the typical range for residential streets.

The posted speed limit along both Cypress Avenue and Monroe Street is 25 mph. Based on the collected data, the 85th percentile speeds along both Cypress Avenue and Monroe Street under existing conditions were found to be approximately 32 mph and exceed the posted speed limit by more than five mph.

Williams Road

Williams Road is classified as a local connector street. The City of San Jose 2040 General Plan describes local connectors as roadways that have two traffic lanes and would accommodate low to moderate volumes of through traffic within the City and prioritize automobiles, bicycles, pedestrians, and trucks equally.

Typically, connector (or collector) streets' include low speeds (25 to 35 miles per hour), low to moderate traffic volumes (5,000 up to 15,000 vehicles per day), and emphasize balance between mobility and access. A connector street is defined by the City of San Jose as being between 60 and 90 feet wide and with ADT volumes typically ranging from 2,000 to 16,000 vehicles.

Williams Road between Cypress Avenue and Winchester Boulevard: Data from 24-hour tube counts revealed that Williams Road between Cypress Avenue and Winchester Boulevard currently carries approximately 7,177 daily vehicles. It is estimated that the proposed project would result in an additional 818 daily trips on Williams Road between Cypress Avenue and Winchester Boulevard. The existing traffic volumes plus additional traffic with the proposed project remains well within the recommended City of San Jose ADT volumes for collector streets.

Speed surveys conducted along Williams Road between Cypress Avenue and Winchester Boulevard revealed the 85th percentile speed along the roadway to be approximately 39 mph under existing conditions. The posted speed limit along the surveyed segment is 35 mph. Based on the collected data, the measured 85th percentile speeds along the roadway segment surveyed are currently within five mph of the posted speed limits. Speeds within five mph of the posted speed limits are considered reasonable. Therefore, based on the speed surveys, it can be concluded that there is not an obvious speeding issue along Williams Road between Cypress Avenue and Winchester Boulevard, and the posted speed limits are adequate.

Williams Road between Winchester Boulevard and Baywood Avenue: Twenty-four-hour tube counts revealed that Williams Road between Winchester Boulevard and Baywood Avenue currently carries approximately 2,589 daily vehicles. It is estimated that the proposed project will result in the addition of 288 daily trips on Williams Road between Winchester Boulevard and Baywood Avenue. The existing traffic volumes plus projected traffic with the proposed project remain well within the recommended City of San Jose ADT volumes for collector streets.

Speed surveys conducted along Williams Road between Winchester Boulevard and Baywood Avenue revealed the 85th percentile speed along the roadway to be approximately 34 miles per hour

(mph). The posted speed limit along the surveyed segment is 25 mph. Based on the collected data, the 85th percentile speeds along Williams Road between Winchester Boulevard and Baywood Avenue exceed the posted speed limit by more than five mph.

Operational Recommendations for Surrounding Roadways

Based on the characteristics of the streets, the traffic count data, and the estimated project traffic, the following conclusions can be drawn:

1. Traffic volumes on each of the surrounding roadways are and would continue to be well within the ADT volume range characteristic of each of the streets.

2. Speeds along Cypress Avenue, Monroe Street and Williams Road currently exceed the posted speed limit by more than five mph. It is recommended that speed enforcement be increased along each of the streets, which are all located in close proximity to schools, to ensure that drivers adhere to posted speed limits. Enforcement can include enhanced signage, temporary (during school peak hours) signage, and/or increased police patrolling.

Queuing – Intersection Operations

Operations at nearby intersections were evaluated under project conditions to assess whether the project would create a safety impact and for informational purposes. From a CEQA standpoint, there are no thresholds specific to queuing. There is, however, a threshold which states that the project would have a significant impact if the project would substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections). It is important to note that lengthening a left-turn queue does not in itself create a safety impact. The following discussion evaluates projected queuing at several intersections and identifies measures that could be employed to accommodate existing and projected queues. The 95th percentile queue length value, on which the analysis is based, indicates that during the peak hour, a queue of this length or less would occur on 95 percent of the signal cycles. A car length is assumed to be 25 feet.

Based upon the discussion below, the project would not substantially increase hazards at these locations.

Winchester Boulevard and Williams Road Intersection

The eastbound left-turn lane has approximately 200 feet of vehicle storage (eight cars) and the westbound left-turn lane has approximately 325 feet of vehicle storage (13 cars). A queuing analysis determined that under existing conditions, the maximum vehicle queues for the eastbound left-turn lane at the Winchester Boulevard/Williams Road intersection exceed the existing vehicle storage capacity during the AM and PM Peak Hours. In the AM Peak Hour, the eastbound left-turn queue is exceeded by approximately 275 feet (11 cars) and the in the PM Peak Hour the queue is exceed by approximately 225 feet (nine cars). Background conditions are equivalent to existing conditions.

Under background plus project conditions, the eastbound queue would be exceeded in the AM Peak Hour by approximately 400 feet (16 cars) and 300 feet in the PM Peak Hour (12 cars).[18]

The queues in the eastbound left-turn lane already block the through-lane under the 95 percentile queue, meaning through traffic has to stop or change lanes until the turn-lane cycles through, clearing the through-lane. Whether the through-lane is blocked by one or more cars does not substantially change the operational conditions on the roadway. The additional cars that would exceed the queue under project conditions does not create a hazard or cause unsafe driving conditions.

In the westbound left-turn lane, there is sufficient capacity under existing and background conditions. Under background plus project conditions, the westbound queue would be exceeded in the PM Peak Hour by 50 feet (two cars). Having the westbound left-turn queue length be exceeded by two cars a limited number of times in the Peak Hour will cause cars in the through lane to wait for the turn-lane queue to move or change lanes. This would not, by itself, create a hazard or cause unsafe driving conditions.

San Tomas Expressway and Williams Road

The southbound left-turn lane has approximately 275 feet of vehicle storage (11 cars). The northbound queue was not addressed as project traffic would have no direct effect on this turning movement. A queuing analysis determined that under existing conditions, the maximum vehicle queues for the southbound left-turn lane at the San Tomas Expressway/Williams Road intersection exceed the existing vehicle storage capacity during the PM Peak Hour by 25 feet (one car). There is sufficient capacity in the AM Peak Hour. Background conditions are equivalent to existing conditions.

Under background plus project conditions, the southbound queue would be exceeded in the PM Peak Hour by approximately 75 feet (three cars). The queues in the southbound left-turn lane already block the through-lane under the 95 percentile queue, meaning through traffic has to stop or change lanes until the turn-lane cycles through, clearing the through-lane. Whether the through-lane is blocked by one or more cars does not substantially change the operational conditions on the roadway. The additional cars that would exceed the queue under project conditions does not create a hazard or cause unsafe driving conditions. There would be sufficient capacity in the AM Peak Hour.

The traffic engineer has identified roadway improvements to alleviate existing and future queuing issues at these intersection. If deemed necessary by City staff, the City will require the project applicant to construct the improvements or pay a fair share fee toward the implementation of the proposed improvements as a condition of approval. (**Less Than Significant Impact)**

[18] This equates to five additional cars in the AM and three additional cars in the PM as a result of the project.

4.2.3 Mitigation and Avoidance Measures for Transportation Impacts

The following mitigation measures, proposed by the project, identify roadway improvements that could reduce the identified intersection impacts. The feasibility of the mitigation measures are addressed below.

City of San Jose Protected Intersection Policy

One of the three intersections impacted by the project, Winchester Boulevard and Stevens Creek Boulevard, is identified as a City of San Jose Protected Intersection. It is recommended that the intersection of Monroe Street and Stevens Creek Boulevard be added to the City of San Jose list of protected intersections as well.

The City of San Jose Protected Intersection Policy provides an exemption for intersections that are located along major transit corridors for which substantial transit improvements are planned. The policy allows for the addition of intersections to the list of Protected Intersections so long as they are located within designated Special Planning Areas and consistent with the General Plan. The Special Planning Areas may include:

- Transit-Oriented Development Corridors
- Planned Residential/Community Areas
- Neighborhood Business Districts
- Downtown Gateways

The Protected Intersection Policy requests that additional capacity not be added to the intersections and they be allowed to operate at capacity (thus, not being required to meet the City of San Jose LOS D standard) with the expectation that alternative routes or modes will be used by drivers when delays become unacceptable. The LOS policy specifies that Protected Intersections consist of locations that have been built to their planned maximum capacity and where expansion of the intersection would have an adverse effect upon other transportation modes (such as pedestrian, bicycle, and transit systems). The policy acknowledges that exceptions to the City's LOS policy of maintaining a Level of Service D at local intersections will be made for certain Protected Intersections that have been built to their planned maximum capacity. If a development project has significant traffic impacts at a designated Protected Intersection, the project may be approved if offsetting Transportation System Improvements are provided that enhance pedestrian, bicycle, and transit facilities in the community near the Protected Intersection.

Intersection Impacts – Background Plus Project

MM TRAN-1.1: Winchester Boulevard and Stevens Creek Boulevard: This intersection has been identified by the City of San Jose as a protected intersection. Therefore, in lieu of physical improvements, the project applicant shall be required to construct offsetting improvements to other parts of the citywide transportation system. The final improvements required will be identified by the City of San Jose based on the traffic impact fees paid by the project. Offsetting improvements shall be implemented prior to issuance of occupancy permits

for the new buildings. Pursuant to the City's policy, the implementation of offsetting improvements would provide project benefits that outweigh the project's significant impact.

MM TRAN-1.2: Monroe Street and Stevens Creek Boulevard: There are no feasible capacity improvements for this intersection due to right-of-way restrictions. The addition of project traffic to the intersection would result in a significant unavoidable impact. The planned use of Stevens Creek Boulevard as a transit corridor (VTA's Bus Rapid Transit) provides the opportunity to add the Monroe Street/Stevens Creek Boulevard intersection to the City's list of protected intersections. Therefore, in lieu of physical improvements, the project applicant shall be required to construct offsetting improvements to other parts of the citywide transportation system. The final improvements required will be identified by the City of San Jose based on the traffic impact fees paid by the project. Offsetting improvements shall be implemented prior to issuance of occupancy permits for the new buildings. Pursuant to the City's policy, the implementation of offsetting improvements would provide project benefits that outweigh the project's significant impact.

MM TRAN-1.3: San Tomas Expressway and Moorpark: The LOS of this intersection would be improved to an acceptable LOS D with the addition of a fourth through lane to both the north and south approaches. The Comprehensive County Expressway Planning Study identified the widening of San Tomas Expressway as a Tier 1 priority. The project applicant shall pay a fair share contribution towards the County's addition of new through lanes on San Tomas Expressway. The payment of fair share fees will reduce the project's impact to a less than significant level.

4.2.4 Conclusion

With implementation of the proposed mitigation, the project would mitigate the intersection impacts to a less than significant level under background plus project conditions. **(Less Than Significant Impact With Mitigation)**

Implementation of the proposed project would have a less than significant impact on freeways and transit systems, as well as existing and planned pedestrian and bicycle facilities. **(Less Than Significant Impact)**

4.3 ENERGY

This section was prepared pursuant to CEQA Guidelines Section 15126.4 (a)(1)(C) and Appendix F which requires that EIRs include a discussion of the potential energy impacts of proposed projects with particular emphasis on avoiding or reducing inefficient, wasteful, and unnecessary consumption of energy. The information in this section is based largely on data and reports produced by the California Energy Commission, the Bay Area Air Quality Management District (BAAQMD), and the Energy Information Administration of the U.S. Department of Energy. The analysis of project impacts is also based in part on an Air Quality Analysis completed by *Illingworth and Rodkin, Inc*. in October 2014. The report can be found in Appendix B of this EIR.

4.3.1 Introduction and Regulatory Background

Energy consumption is analyzed in an EIR because of the environmental impacts associated with its production and usage. Such impacts include the depletion of nonrenewable resources (e.g., oil, natural gas, coal, etc.) and emissions of pollutants during both the production and consumption phases.

Energy usage is typically quantified using the British Thermal Unit (Btu).[19] As points of reference, the approximate amount of energy contained in a gallon of gasoline, a cubic foot of natural gas, and a kilowatt hour (kWh) of electricity are 123,000 Btus, 1,000 Btus, and 3,400 Btus, respectively. Utility providers measure gas usage in therms. One therm is approximately equal to 100,000 Btus.

Electrical energy is expressed in units of kilowatts (kW) and kilowatt-hours (kWh). One kilowatt, a measurement of power (energy used over time), equals one thousand joules[20] per second. A kilowatt-hour is a measurement of energy. If run for one hour, a 1,000 watt (one kW) hair dryer would use one kilowatt-hour of electrical energy. Other measurements of electrical energy include the megawatt (1,000 kW) and the gigawatt (1,000,000 kW).

4.3.1.1 Regulatory Setting

Many Federal, State, and local statutes and policies address energy conservation. At the Federal level, energy standards set by the U.S. Environmental Protection Agency (EPA) apply to numerous products (e.g., the EnergyStar™ program). The EPA also sets fuel efficiency standards for automobiles and other modes of transportation.

At the State level, the Energy Efficiency Standards for Residential and Nonresidential Buildings, as specified in Title 24, Part 6, of the California Code of Regulations, were established in 1978 in response to a legislative mandate to reduce California's energy consumption. These energy efficiency standards are updated approximately every three years; the 2013 standards have been

[19] The British Thermal Unit (Btu) is the amount of energy that is required to raise the temperature of one pound of water by one degree Fahrenheit.
[20] As defined by the International Bureau of Weights and Measures, the joule is a unit of energy or work. One joule equals the work done when one unit of force (a Newton) moves through a distance of one meter in the direction of the force.

adopted and became effective July 1, 2014. Compliance with these standards is mandatory at the time new building permits are issued by City and County governments.[21]

In January 2010, the State of California adopted the California Green Building Standards Code (CALGreen) that establishes mandatory green building standards for all buildings in California. The code covers five categories: planning and design, energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and indoor environmental quality.

At the local level, the City of San José sets green building standards for municipal development. All projects are required to submit a LEED[22], GreenPoint[23], or Build It Green checklist with the development proposal. Private developments are required to implement green building practices if they meet the Applicable Projects criteria defined by Council Policy 6-32 and shown in the table below.

TABLE 4.3-1
Private Sector Green Building Policy Applicable Projects

Applicable Project	Minimum Green Building Rating
Commercial/Industrial – Tier 1 (Less than 25,000 Square Feet)	LEED Applicable NC Checklist
Commercial/Industrial – Tier 2 (25,000 Square Feet or greater)	LEED Silver
Residential – Tier 1 (Less than 10 units)	GreenPoint or LEED Checklist
Residential – Tier 2 (10 units or greater)	GreenPoint Rated 50 points or LEED Certified
High Rise Residential (75 feet or higher)	LEED Certified

For mixed use projects – only that component of the project triggering compliance with the policy shall be required to achieve the applicable green building standard.
City of San José. "Private Sector Green Building Policy: Policy Number 6-32." October 7, 2008. Available at: http://www3.sanjoseca.gov/clerk/cp_manual/CPM_6_32.pdf

4.3.1.2 Existing Setting

Total energy usage in California was approximately 7,641 trillion Btu in the year 2012 (the most recent year for which this specific data was available).[24] The breakdown by sector was

[21] California Energy Commission. "Building Energy Efficiency Program." 2013. Accessed September 3, 2014. Available at: http://www.energy.ca.gov/title24/
[22] Created by the non-profit organization United States Green Building Council, LEED (Leadership in Energy and Environmental Design) is a certification system that assigns points for green building measures based on a 110-point rating scale.
[23] Created by the California based non-profit organization Build It Green, GreenPoint is a certification system for residential development that assigns points for green building measures based on a 381-point rating scale for multi-family development and 341-point rating scale for single-family developments.
[24] United States Energy Information Administration. "Table C4. Total End-Use Energy Consumption Estimates, 2012." Accessed July 9, 2014. Available at: http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_use_tx.html&sid=CA

approximately 19 percent for residential uses, 19.5 percent for commercial uses, 23 percent for industrial uses, and 38.5 percent for transportation.[25] Energy in California is primarily supplied in the form of natural gas, petroleum, nuclear electric power, and hydroelectric power.

Existing energy use associated with development on the project site primarily consists of fuel for vehicle trips to and from the site, electricity for lighting and cooling, and natural gas for heating, cooking, and operations within the building. Given the nature of land uses on-site, the remainder of this discussion will focus on the three most relevant sources of energy: electricity, natural gas, and gasoline for vehicle trips.

4.3.1.3 Electricity

Electricity supply in California involves a complex grid of power plants and transmission lines. In 2011, California produced approximately 70 percent of the electricity it consumed; it imported the remaining 30 percent from 11 western states, Canada, and Mexico. Electricity imports from the northwest states were particularly high in 2011 due to an increase in hydroelectric generation resulting from higher precipitation in the northwest.

The bulk of California's electricity comes from power plants. In 2013, 60 percent the State's electricity was generated by natural gas, nine percent by nuclear, ten percent by large hydroelectric, and one percent by coal. Renewable sources such as rooftop photovoltaic systems, biomass power plants, and wind turbines, accounted for the remaining 20 percent of California's electricity. [26]

Electricity consumption in California increased by approximately 4.6 percent in the last decade, from approximately 260,408 gigawatt hours (GWh) in 2000 to approximately 272,342 GWh in 2010. Electricity consumption is forecast to increase by five to nine percent over 2010 levels by 2015, bringing total consumption to between 286,000 and 296,000 GWh.[27]

Pacific Gas and Electric (PG&E) is San José's energy utility, providing both natural gas and electricity for residential, commercial, industrial, and municipal uses. PG&E generates electricity at hydroelectric, nuclear, renewable, natural gas, and coal facilities. In 2012, natural gas facilities provided 27 percent of PG&E's electricity delivered to retail customers; nuclear plants provide 21 percent; hydroelectric operations provide 11 percent; renewable energy facilities including solar, geothermal, and biomass provide 19 percent; and 21 percent was unspecified.[28] Under the provisions of SB 107, investor-owned utilities were required to generate 20 percent of their retail electricity

[25] United States Energy Information Administration. "Table C1. Energy Consumption Overview: Estimates by Energy Source and End-Use Sector, 2012". Accessed July 9, 2014. Available at: http://www.eia.gov/beta/state/seds/data.cfm?incfile=/state/seds/sep_sum/html/sum_btu_1.html&sid=CA

[26] California Energy Commission, Energy Almanac, "Total Electricity System Power, 2013." Accessed September 3, 2014. Available at: http://www.energyalmanac.ca.gov/electricity/total_system_power.html

[27] California Energy Commission. "2011 Integrated Energy Policy Report (CEC-100-2011-001-CMF)." Page 103. Accessed November 12, 2013. Available at: http://www.energy.ca.gov/2011publications/CEC-100-2011-001/CEC-100-2011-001-CMF.pdf

[28] PG&E. "Clean Energy Solutions." Accessed September 3, 2014. Available at: http://www.pge.com/en/about/environment/pge/cleanenergy/index.page
Due to rounding conventions, the percentage of energy power type does not equal 100 percent.

using qualified renewable energy technologies by the end of 2010. PG&E's 2012 electricity mix was 19 percent renewable.

Electricity usage for differing land uses varies substantially by the type of uses in a building, the type of construction materials used, and the efficiency of the electricity-consuming devices used. Electricity used in the PG&E Planning Area, within which the project is located, is consumed primarily by the commercial sector (41 percent), the residential sector (33 percent), and the industrial sector (approximately 16 percent).[29] In 2012, approximately 16,492 million kWh of electricity were consumed in Santa Clara County.[30]

4.3.1.4 Natural Gas

In 2012, approximately nine percent of California's natural gas supply came from in-state production, while 91 percent was imported from other western states and Canada.[31] The most recent data from the U.S. Energy Information Administration shows that between 2008 and 2012, on average, approximately 34 percent of the natural gas delivered for consumption in California was for electricity generation, 32 percent for industrial uses, 22 percent for residential uses, 11 percent for commercial uses, and less than one percent for transportation.[32] As with electricity usage, natural gas usage depends on the type of uses in a building, the type of construction materials used, and the efficiency of gas-consuming devices. In 2012, the State of California consumed approximately 2.4 trillion cubic feet of natural gas, or 2.46 billion MMBtu.[33, 34]

4.3.1.5 Gasoline for Motor Vehicles

California accounts for more than seven percent of the United States' crude oil production and petroleum refining capacity.[35] In 2010, 21.5 billion gallons of gasoline, diesel, and jet fuel were consumed in California.[36] According to the California Energy Commission's *2011 Integrated Energy Policy Report*, California is experiencing a downward trend in sales of gasoline, diesel, and jet fuel, primarily due to low economic growth and high unemployment. It is expected that this trend will continue in the future due to high fuel prices, efficiency gains, competing fuel technologies, and mandated use of alternative fuels.

[29] California Energy Commission, Energy Consumption Data Management System. "Electricity Consumption by Planning Area, 2011." Accessed September 3, 2014. Available at: http://ecdms.energy.ca.gov/elecbyplan.aspx
[30] California Energy Commission, Energy Consumption Data Management System. "Electricity Consumption by County." N.d. Accessed September 3, 2014. Available at: http://www.ecdms.energy.ca.gov/elecbycounty.aspx
[31] California Energy Commission. "Natural Gas Supply by Region." 2011. Accessed September 3, 2014. Available at: http://www.energyalmanac.ca.gov/naturalgas/natural_gas_supply.html
[32] U.S. Energy Information Administration. "Natural Gas Summary." June 30, 2014. Accessed September 3, 2014. Available at: http://www.eia.gov/dnav/ng/ng_sum_lsum_dcu_SCA_a.htm
[33] United States Energy Information Administration. "Which states consume and produce the most natural gas?" June 26, 2014. Accessed September 3, 2014. Available at: http://www.eia.gov/tools/faqs/faq.cfm?id=46&t=8
[34] Conversion uses 1,027 Btu per cubic foot of natural gas.
[35] United States Energy Information Administration. "California State Energy Profile." June 19, 2014. Accessed September 3, 2014. Available at: http://www.eia.gov/beta/state/analysis.cfm?sid=CA
[36] California Energy Commission. "2011 Integrated Energy Policy Report (CEC-100-2011-001-CMF)." Page 139. Accessed September 3, 2014. Available at: http://www.energy.ca.gov/2011publications/CEC-100-2011-001/CEC-100-2011-001-CMF.pdf

The average fuel economy for light-duty vehicles (autos, pickups, vans, and SUVs) in the United States has steadily increased from about 13.1 miles-per-gallon (mpg) in the mid-1970s to 23.8 mpg in 2012 (estimated).[37] Federal fuel economy standards have changed substantially since the Energy Independence and Security Act was passed in 2007. That standard, which originally mandated a national fuel economy standard of 35 miles per gallon by the year 2020, was subsequently revised to apply to cars and light trucks of Model Years 2011-2020.[38,39] In 2012, the Federal government raised the fuel economy standard to 54.5 miles per gallon for cars and light-duty trucks by Model Year 2025.[40]

4.3.1.6 Energy Use of Existing Development and Zoning

The electricity and natural gas used by the existing development on-site is estimated in Table 4.3-2 below based on energy demand factors used in the California Emissions Estimator Model (CalEEMod).

TABLE 4.3-2
Estimated Annual Energy Use of Existing Development

Development (40.62 acres)	**Energy Demand Factors[1]**	**Electricity Use (kWh)**	**Natural Gas Use (kBtu)**
216 low-rise apartment units[2]	1,105.4 kWh/dwelling unit 8,907 kBtu/dwelling unit	238,766	1,923,912
1,700 sf office[3]	11.9 kWh/sf; 17.2 kBtu/sf	20,230	29,240
TOTAL		**258,996**	**1,953,152**

[1] Source: California Air Pollution Control Officers Association (CAPCOA). *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 9.1.
Assumes energy use complies with Title 24.
[2] Low-rise apartments are up to two stories.
[3] Square footage of the leasing office is measured from an aerial.
Note: This analysis assumes there are no electric or gas use for operations of a recreational pool.

As shown above, each year the existing development on-site consumes approximately 258,996 kWh of electricity and 1,953,152 kBtu of natural gas.

[37] U.S. Environmental Protection Agency. "Light-Duty Automotive Technology, Carbon Dioxide Emissions and Fuel Economy Trends: 1975 through 2012." March 2013. Page i. Available at: http://www.epa.gov/fueleconomy/fetrends/1975-2012/420s13001.pdf
[38] U.S. Department of Energy. "Energy Independence & Security Act of 2007." Accessed September 3, 2014. Available at: http://www.afdc.energy.gov/laws/eisa
[39] Public Law 110–140—December 19, 2007. "Energy Independence & Security Act of 2007." Page 1449. Accessed September 3, 2014. Available at: http://www.gpo.gov/fdsys/pkg/PLAW-110publ140/pdf/PLAW-110publ140.pdf
[40] National Highway Traffic Safety Administration. "Obama Administration Finalizes Historic 54.5 mpg Fuel Efficiency Standards." Accessed September 3, 2014. Available at: http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/Obama+Administration+Finalizes+Historic+54.5+mpg+Fuel+Efficiency+Standards

Transportation-Related Energy Use

Based on the trip summary information contained in Attachment 1 of the project air quality analysis (Appendix B), the total annual vehicle miles travelled (VMT) to and from the existing development is 2,013,492 miles.[41] Given that the vehicles going to and from the site have a wide range of fuel efficiencies, any estimate of gasoline use from vehicle trips will have a substantial margin of error. However, fuel economy estimates from the U.S. EPA can be used to approximate existing gasoline use and to provide a comparison with the proposed project. Based on the 2012 EPA estimated average fuel economy of 23.8 mpg, the existing development results in the consumption of approximately 84,601 gallons of gasoline per year.

4.3.2 Energy Impacts

4.3.2.1 Thresholds of Significance

Based on Appendix F of the CEQA Guidelines, and for the purposes of this EIR, a project will result in a significant energy impact if the project will:

- Use fuel or energy in a wasteful manner; or
- Result in a substantial increase in demand upon energy resources in relation to projected supplies; or
- Result in longer overall distances between jobs and housing.

4.3.2.2 Estimated Energy Use of the Proposed Project

The project proposes to demolish the existing 216 apartments and associated buildings, hardscape, and landscape and construct 650 residential units, increasing the number of residents on-site. In addition, the project proposes 8,000 sf of retail and two levels of underground parking. The increase in residential units and addition of retail would increase the energy use on-site.

Energy would be consumed during both the construction and operational phases of the proposed project. The construction phase would require energy for the manufacture and transportation of building materials, preparation of the site (e.g., demolition, grading, and excavation), and the actual construction of the buildings. Petroleum-based fuels such as diesel fuel and gasoline would be the primary sources of energy for these tasks. The operation of the proposed residential and retail uses would consume energy (in the form of electricity and natural gas) primarily for building heating and cooling, lighting, cooking, and water heating. Table 4.3-4 summarizes the estimated energy use of the proposed development.

[41] VMT include weekday and weekend commute.

TABLE 4.3-4 Estimated Annual Energy Use of Proposed Development			
Proposed PD Zoning (42.53 acres)	**Energy Demand Factors[1]**	**Electricity Use (kWh)**	**Natural Gas Use (kBtu)**
650 mid-rise apartment units	1,023.6 kWh/dwelling unit 6,872.7 kBtu/dwelling unit	665,340	4,467,255
8,000 sf retail	9.57 kWh/sf; 2.92 kBtu/sf	76,560	23,360
TOTAL		**741,900**	**4,490,615**

[1] Source: CAPCOA. *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 9.1
Assumes energy use complies with Title 24.
[2] Mid-rise apartments are three to six stories.
Note: Operation of the underground parking would not use a substantial amount of energy and is not considered in the analysis.

Transportation-Related Energy Use

Based on the trip summary information contained in Attachment 1 of the project air quality analysis (Appendix B), the total annual VMT to and from the proposed project would be 10,009,858 miles. Using the 23.8 miles per gallon EPA estimate, the proposed project would result in the consumption of approximately 420,582 gallons of gasoline per year.

4.3.2.3 Operational Impacts from the Proposed Project

Table 4.3-5 below compares the energy use increase that would result from the proposed project with the energy use of the existing development.

TABLE 4.3-5 Energy Demand of Existing Development, Existing Zoning, and Proposed Zoning			
Development Scenario	**Electricity**	**Natural Gas**	**Gasoline**
Existing Development	258,996 kWh	1,953,152 kBtu	84,601
Proposed Development	741,900 kWh	4,490,615 kBtu	420,582
Increase over Existing Development	*482,904 kWh*	*2,537,463 kBtu*	335,981

[1] Source: CAPCOA. *California Emissions Estimator Model User's Guide, Version 2013.2*. July 2013. Appendix D, Table 9.1

As shown in Table 4.3-5 above, the project would increase electricity use at the project site by approximately 482,904 kWh per year, natural gas usage by 2,537,463 kBtu per year, and gasoline consumption by 335,981 gallons over existing conditions. The energy use increase is likely overstated, however, because the estimates for energy use do not take into account the efficiency measures incorporated into the project (discussed below). In addition, the 650 residential units to be constructed will be built to the 2013 California Building Code standards, thereby improving the efficiency of the housing compared to the existing apartments.

As described above, annual electricity use in California was projected to increase by 14,000 – 24,000 GWh (one GWh equals 1,000 MWh) between 2010 and 2015. The proposed project would increase

annual electricity use by approximately 482.9 MWh, or 0.5 GWh. The project would not result in a substantial increase in demand on electrical energy resources in relation to projected supply. Recent developments in extracting natural gas from shale formations have contributed to a 20 percent increase in United States natural gas production between 2005 and 2011.[42] Based on the relatively small increase in natural gas demand from the project compared to the growth trends in natural gas supply and the existing available supply in California, the proposed project would not result in a substantial increase in natural gas demand relative to projected supplies. **(Less Than Significant Impact)**

Transportation-Related Energy Use

As detailed above, the proposed project would increase annual gasoline demand by approximately 335,981 gallons over the existing condition. Though this increase is sizable when compared to the gasoline use associated with the existing development, it would not be a substantial increase in the context of gasoline supply and demand in the City of San José and in the State of California. New automobiles purchased by future occupants of the proposed project would be subject to fuel economy and efficiency standards applied throughout the State of California, which means that over time the fuel efficiency of vehicles associated with the project site would improve. In addition, the project site is located within close walking distance to stores and services and bus stops for VTA Local lines 25 and 60. These bus routes provide opportunities for residents and employees to commute via public transit to and from downtown San José, offices in north Santa Clara, and the Winchester light rail station in the City of Campbell. As detailed in *Section 4.2, Transportation*, existing bus services can accommodate an increase in ridership demand resulting from the proposed project, which means that some employees and residents of the project site could commute to and from work without increasing transportation-related energy use. **(Less Than Significant Impact)**

4.3.2.4 Energy Efficiency

Construction

The proposed development would be built in two phases. Based on the original project schedule, the analysis assumed that Phase One would be approximately 7.5 months from mid-April 2015 through the beginning of November 2015 and Phase Two would be one year from October 2016 to October 2017 for construction of the residential units and retail space. If the project is approved, the overall dates of construction would change, but the durations of each phase would not. Furthermore, due to continual improvements in the efficiency of construction equipment, the analysis assumptions represent a more conservative estimate of energy efficiency during construction.

The proposed development would have an estimated 638 construction workdays (based on an average of 22 workdays per month).[43] The project would require demolition, grading, excavation

[42] California Energy Commission. *Overview of Natural Gas in California.* 2014. Accessed September 3, 2014. Available at: http://energyalmanac.ca.gov/naturalgas/overview.html

[43] Because light and heavy duty vehicles as well as construction equipment will increase in efficiency over time, continuing to base the analysis on an earlier start date provides the most conservative estimate of energy usage during construction.

and site preparation for construction of the proposed buildings and underground parking structure. Based on data provided by the project applicant, approximately 140,000 cubic yards of soil and 2,700 tons of demolished building material and pavement would be exported from the site. No soil would be imported to the project site.

The proposed project includes measures that will improve the efficiency of the construction process. Implementation of the BAAQMD BMPs detailed in *Section 4.4, Air Quality* would restrict equipment idling times to five minutes or less and would require the applicant to post signs on the project site reminding workers to shut off idle equipment.

There will be unavoidable adverse effects caused by construction because the use of fuels and building materials are fundamental to construction of new buildings. With implementation of the feasible measures to minimize the energy impacts of construction (BAAQMD BMPs *Section 4.4, Air Quality)*, unavoidable effects of development on-site would be less than significant. **(Less Than Significant Impact)**

Operation

The proposed project would be required to be built consistent with the State CalGreen code, which includes insulation and design provisions to minimize wasteful energy consumption. Though the proposed project does not include on-site renewable energy resources, the proposed residential buildings would also be built to achieve LEED certification or Built It Green 50 points rating consistent with San José Council Policy 6-32.

The proposed development is located near public transit which would incentivize the use of alternative methods of transportation to and from the site. Based on the measures required for LEED certification and Building It Green 50 points rating, the proposed project would exceed State energy standards.

Distance Between Jobs and Housing

The project proposes an infill development that includes residential and a small amount of retail uses. It would create a minimal number of jobs in a city that currently has a higher number of employed residents than jobs (approximately 0.8 jobs per employed resident). The implications of this imbalance are that many residents leave San José five times per week to commute to and from work, typically by personal vehicle. While the project proposes 8,000 square feet of retail space, which could generate some employed residents, the housing development on-site would result in a greater increase in employed residents than jobs in the City.

As mentioned above, the project site is located near public transit which would provide an alternate mode of transportation for residents, employees, and visitors. The project site is also within walking distance of retail and services. These measures would help to reduce vehicle trips to and from the project site. Ongoing increases in the fuel economy standards for new vehicles would result in efficiency gains for vehicles over time. Therefore, although the project would increase the VMT associated with the project site compared to the existing condition, the project would not result in significant energy impacts. **(Less Than Significant Impact)**

4.3.3 Mitigation and Avoidance Measures

No mitigation is required or proposed.

4.3.4 Conclusion

The project proposes to increase the number of residents on-site and would place new jobs in an infill site near housing and in San José. The project would not result in significant energy impacts associated with the distance between jobs and housing and, due to the inclusion of the proposed green building design features, the project would not result in the wasteful use of fuel or energy. The project would not result in a substantial increase in demand upon energy resources in relation to projected supplies. **(Less Than Significant Impact)**

4.4 AIR QUALITY

The following discussion is based, in part, on an air quality assessment prepared by *Illingworth & Rodkin* in March 2015. The report can be found in Appendix B of this EIR.

4.4.1 Setting

Air quality is determined by the concentration of various pollutants in the atmosphere. Units of concentration are expressed in parts per million (ppm) or micrograms per kilograms (μg/kg).

The amount of a given pollutant in the atmosphere is determined by the amount of pollutants released within an area, transport of pollutants to and from surrounding areas, local and regional meteorological conditions, and the surrounding topography of the air basin. The major determinants of transport and dilution are wind, atmospheric stability, terrain and, for photochemical pollutants, sun light.

San Jose is located in the Santa Clara Valley, in the southern portion of the San Francisco Bay Area Air Basin, known as the south bay. The Bay Area Air Quality Management District (BAAQMD) is the regional government agency that monitors and regulates air pollution within the air basin.

The proximity of San Jose to both the San Francisco Bay and Pacific Ocean has a moderating influence on the climate in the project area. Meteorological factors make it likely for high levels of air pollutants to accumulate in Santa Clara Valley. Northwest winds and northerly winds are most common in the project area, reflecting the orientation of the Bay and the San Francisco Peninsula. Air quality standards for ozone are typically exceeded when relatively stagnant conditions occur for periods of several days during the warmer months of the year. Weak wind flow patterns combined with strong inversions substantially reduce normal atmospheric mixing. Key components of ground-level ozone formation are sunlight and heat. Significant ozone formation, therefore, only occurs during the months from late spring through early fall. Prevailing winds during the summer and fall can transport and trap ozone precursors from the more urbanized portions of the Bay Area.

Pollutants can be diluted by mixing in the atmosphere both vertically and horizontally. Vertical mixing and dilution of pollutants are often suppressed by inversion conditions, when a warm layer of air traps cooler air close to the surface. During the summer, inversions are generally elevated above ground level, but are present over 90 percent of the time in both the morning and afternoon. In winter, surface-based inversions dominate in the morning hours, but frequently dissipate by afternoon.

Topography can restrict horizontal dilution and mixing of pollutants by creating a barrier to air movement. The South Bay has significant terrain features that affect air quality. The Santa Cruz Mountains and Diablo Range on either side of the South Bay restrict horizontal dilution, and this alignment of the terrain also channels winds from the north to south, carrying pollution from the northern Peninsula towards San Jose.

The combined effects of moderate ventilation, frequent inversions that restrict vertical dilution, and terrain that restricts horizontal dilution give San Jose a relatively high atmospheric potential for pollution compared to other parts of the San Francisco Bay Air Basin and provide a high potential for transport of pollutants to the east and south.

4.4.1.1 Overall Regulatory Setting

The significance of a pollutant concentration is determined by comparing the pollutant levels to an appropriate ambient air quality standard. The standards set the level of pollutant concentrations allowable while protecting general public health and welfare.

The Federal Clean Air Act (Federal CAA) establishes pollutant thresholds for air quality in the United States. In addition to being subject to Federal requirements, California has its own more stringent regulations under the California Clean Air Act (California CAA). At the Federal level, the U.S. Environmental Protection Agency (EPA) administers the CAA. The California CAA is administered by the California Air Resources Board (CARB) at the State level and by the Air Quality Management District's at the regional and local levels. The Bay Area Air Quality Management District (BAAQMD) regulates air quality in the nine-county Bay Area.

The U.S. EPA is responsible for establishing the National Ambient Air Quality Standards (NAAQS) which are required under the Federal CAA. The U.S. EPA regulates emission sources that are under the exclusive authority of the Federal government, such as aircraft, ships, and certain types of locomotives. The agency also established various emission standards for vehicles sold in states other than California. Automobiles sold in California must meet the stricter emission standards established by CARB.

California Air Resources Board

As stated above, CARB (which is part of the California EPA) is responsible for meeting the State requirements of the Federal CAA, administering the California CAA, and establishing the California Ambient Air Quality Standards (CAAQS). The California CAA requires all air districts in the State to achieve and maintain CAAQS. CARB regulates mobile air pollution sources such as motor vehicles. The agency is responsible for setting emission standards for vehicles sold in California and for other emission sources, such as consumer products and certain off-road equipment. CARB has established passenger vehicle fuel specifications and oversees the functions of local air pollution control districts and air quality management districts, which in turn administer air quality activities at the regional and county level. CARB also conducts or supports research into the effects of air pollution on the public and develops approaches to reduce air pollutant emissions.

Bay Area Air Quality Management District

BAAQMD is primarily responsible for ensuring that the national and State ambient air quality standards are attained and maintained in the Bay Area. These ambient air quality standards are levels of contaminants which represent safe levels that avoid specific adverse health effects associated with each pollutant. The ambient air quality standards cover what are called "criteria" pollutants because the health and other effects of each pollutant are described in criteria documents. Table 4.4-1

identifies the major criteria pollutants, characteristics, health effects, and typical sources for the Bay Area.

TABLE 4.4-1
Major Criteria Pollutants

Pollutant	Characteristics	Health Effects	Major Sources
Ozone	A highly reactive photochemical pollutant created by the action of sun light on ozone precursors. Often called photochemical smog.	- Eye Irritation - Respiratory function impairment	The major sources of ozone precursors are combustion sources such as factories and automobiles, and evaporation of solvents and fuels.
Carbon Monoxide	Carbon monoxide is an odorless, colorless gas that is highly toxic. It is formed by the incomplete combustion of fuels.	- Impairment of oxygen transport in the bloodstream - Aggravation of cardiovascular disease - Fatigue, headache, confusion, dizziness - Can be fatal in the case of very high concentrations	Automobile exhaust, combustion of fuels, combustion of wood in wood stoves and fireplaces.
Nitrogen Dioxide	Reddish-brown gas that discolors the air, formed during combustion.	- Increased risk of acute and chronic respiratory disease	Automobile and diesel truck exhaust, industrial processes, and fossil-fueled power plants.
Sulfur Dioxide	Sulfur dioxide is a colorless gas with a pungent, irritating odor.	- Aggravation of chronic obstruction lung disease - Increased risk of acute and chronic respiratory disease	Diesel vehicle exhaust, oil-powered power plants, and industrial processes.
Particulate Matter	Solid and liquid particles of dust, soot, aerosols and other matter that are small enough to remain suspended in the air for a long period of time.	- Aggravation of chronic disease and heart/lung disease symptoms	Combustion, automobiles, field burning, factories and unpaved roads. Also a result of photochemical processes.

BAAQMD is also responsible for adopting and enforcing rules and regulations concerning air pollutant sources, issuing permits for stationary sources of air pollutants, inspecting stationary sources of air pollutants, responding to citizen complaints, monitoring ambient air quality and meteorological conditions, awarding grants to reduce motor vehicle emissions, conducting public education campaigns, and many other associated activities.

National and State Ambient Air Quality Standards

The ambient air quality in a given area depends on the quantities of pollutants emitted within the area, transport of pollutants to and from the surrounding areas, local and regional meteorological

conditions, and the surrounding topography of the air basin. Air quality is described by the concentration of various pollutants in the atmosphere. The significance of the pollutant concentration is determined by comparing the concentration to an appropriate ambient air quality standard. The standards represent the allowable pollutant concentrations designed to ensure that the public health and welfare are protected, while including a reasonable margin of safety to protect the more sensitive individuals in the population.

As required by the Federal CAA, the NAAQS have been established for six major air pollutants; carbon monoxide (CO), nitrogen oxides (NO_x), ozone (O_3), respirable particulate matter (PM_{10}), fine particulate matter ($PM_{2.5}$), sulfur oxides (SO_x), and lead (Pb). Pursuant to the California CAA, the State of California has also established ambient air quality standards. The CAAQS are generally more stringent than the corresponding Federal standards and incorporate additional standards for pollutants such as sulfates, hydrogen sulfide, vinyl chloride and visibility reducing particles. Both State and Federal standards are summarized in Table 4.4-2. The "primary" standards have been established to protect the public health. The "secondary" standards are intended to protect the nation's general welfare and account for adverse air pollutant effects on soil, water, visibility, materials, vegetation and other aspects of the general welfare. Because CAAQS are more stringent than NAAQS, CAAQS are used as the applicable standard in this analysis.

TABLE 4.4-2
Ambient Air Quality Standards

Pollutant	Averaging Time	California Standards	National Standards	
			Primary	Secondary
Ozone	1-hour	0.09 ppm	---	Same as primary
	8-hour	0.07 ppm	0.075 ppm	---
Carbon monoxide	1-hour	20 ppm	35 ppm	---
	8-hour	9.0 ppm	9.0 ppm	---
Nitrogen dioxide	1-hour	0.18 ppm	0.10 ppm	---
	Annual	0.03 ppm	0.053 ppm	Same as primary
Sulfur dioxide	1-hour	0.25 ppm	0.075 ppm	---
	3-hour	---	---	0.5 ppm
	24-hour	0.04 ppm	---	---
PM_{10}	24-hour	50 $\mu g/m^3$	150 $\mu g/m^3$	Same as primary
	Annual	20 $\mu g/m^3$	---	---
$PM_{2.5}$	24-hour	---	35 $\mu g/m^3$	Same as primary
	Annual	12 $\mu g/m^3$	15 $\mu g/m^3$	Same as primary
Lead	Calendar Quarter	---	1.5 $\mu g/m^3$	Same as primary
	30-day average	1.5 $\mu g/m^3$	---	---

Source: California Air Resources Board, September 2010.

Regional Clean Air Plans

The BAAQMD and other agencies prepare clean air plans in response to the State and Federal CAA. The City of Santa Clara also has General Plan policies that encourage development that reduces air quality impacts. In addition, BAAQMD has developed CEQA Guidelines to assist local agencies in

evaluating and mitigating air quality impacts in CEQA documents. The regional clean air plan is the 2010 Bay Area Clean Air Plan (CAP). A description of this plan and the City of San Jose's relevant General Plan policies is provided in Section 3.0, *Consistency with Plans and Policies.*

4.4.1.2 Existing Air Quality Conditions

Air quality studies generally focus on five criteria pollutants that are most commonly measured and regulated: CO, ground level ozone, nitrogen dioxide (NO_2), sulfur dioxide (SO_2), and suspended particulate matter (PM_{10} and $PM_{2.5}$). In Santa Clara County, ozone and particulate matter are the pollutants of greatest concern, since measured air pollutant levels exceed the State and Federal air quality standards concentrations at times.

Carbon Monoxide

Carbon monoxide (CO), a colorless and odorless gas, interferes with the transfer of oxygen to the brain. It can cause dizziness and fatigue, and can impair central nervous system functions. Highest CO concentrations measured in the South Bay Area have been well below the national and State ambient standards. Since the primary sources of CO are exhaust from cars and trucks, highest concentrations would be found near congested roadways that carry large volumes of traffic. Carbon monoxide emitted from a vehicle is highest near the origin of a trip and considerably lower once the automobile is warmed up (usually five to ten minutes into a trip).

Ozone

While O_3 serves a beneficial purpose in the upper atmosphere (stratosphere) by reducing ultraviolet radiation, when it reaches elevated concentrations in the lower atmosphere it can be harmful to the human respiratory system and to sensitive species of plants. Ozone concentrations build to peak levels during periods of light winds, bright sunshine, and high temperatures. Short-term O_3 exposure can reduce lung function in children, make persons susceptible to respiratory infection, and produce symptoms that cause people to seek medical treatment for respiratory distress. Long-term exposure can impair lung defense mechanisms and lead to emphysema and chronic bronchitis. Sensitivity to O_3 varies among individuals, but about 20 percent of the population is sensitive to O_3, with exercising children being particularly vulnerable. Ozone is formed in the atmosphere by a complex series of photochemical reactions that involve "ozone precursors" that are two families of pollutants: oxides of nitrogen (NOx) and reactive organic gases (ROG). Nitrogen oxides and ROG are emitted from a variety of stationary and mobile sources. While NO_2, an oxide of nitrogen, is another criteria pollutant itself, ROGs are not in that category, but are included in this discussion as O_3 precursors. The U.S. EPA recently established a new more stringent standard for O_3 of 0.75 ppm for 8-hour exposures, based on a review of the latest new scientific evidence.

Nitrogen Dioxide

Nitrogen dioxide, a reddish-brown gas, irritates the lungs. Exposure to NO_2 can cause breathing difficulties at high concentrations. Clinical studies suggest that NO_2 exposure to levels near the current standard may worsen the effect of allergens in allergic asthmatics, especially in children. Similar to O_3, NO_2 is not directly emitted, but is formed through a reaction between nitric oxide (NO)

and atmospheric oxygen. Nitric oxide and NO_2 are collectively referred to as NO_x and are major contributors to O_3 formation. Nitrogen oxides are emitted from combustion of fuels, with higher rates at higher combustion temperatures. Nitrogen dioxide also contributes to the formation of PM_{10} (see discussion of PM_{10} below). Monitored levels in the Bay Area are well below ambient air quality standards.

PM_{10} and $PM_{2.5}$

Respirable particulate matter (PM_{10}), and fine particulate matter ($PM_{2.5}$) consist of particulate matter that is ten microns or less in diameter and 2.5 microns or less in diameter, respectively, and represent fractions of particulate matter that can be inhaled and cause adverse health effects. Both PM_{10} and $PM_{2.5}$ are health concerns, particularly at levels above the Federal and State ambient air quality standards. Scientific studies have suggested links between fine particulate matter and numerous health problems including asthma, bronchitis, and acute and chronic respiratory symptoms such as shortness of breath and labored breathing. Children are more susceptible to the health risks of $PM_{2.5}$ because their immune and respiratory systems are still developing. The primary sources of these pollutants are wood smoke and local traffic.

Both PM_{10} and $PM_{2.5}$ pose a greater health risk than larger particles because these tiny particles can penetrate the human respiratory system's natural defenses and damage the respiratory tract, increasing the number and severity of asthma attacks, cause or aggravate bronchitis and other lung diseases, and reduce the body's ability to fight infections. Whereas larger particles tend to collect in the upper portion of the respiratory system, $PM_{2.5}$ is miniscule and can penetrate deeper into the lungs and damage lung tissues. Suspended particulates also damage and discolor surfaces on which they settle, as well as produce haze and reduce regional visibility. Most stations in the Bay Area reported exceedances of the State standard on the same fall/winter days as reported in the South Bay. Meteorological conditions that are common during this time of the year produce calm winds and strong surface-based inversions that trap pollutants near the surface.

Air Monitoring Data

Air quality in the region is controlled by the rate of pollutant emissions and meteorological conditions. Meteorological conditions, such as wind speed, atmospheric stability, and mixing height may all affect the atmosphere's ability to mix and disperse pollutants. Long-term variations in air quality typically result from changes in air pollutant emissions, while frequent, short-term variations result from changes in atmospheric conditions. The San Francisco Bay Area is considered to be one of the cleanest metropolitan areas in the country with respect to air quality. BAAQMD monitors air quality conditions at over 30 locations throughout the Bay Area. There are several BAAMQD monitoring stations near San Jose.

As shown in Table 4.4-3, violations of State and Federal standards at the downtown San José monitoring station (the nearest monitoring station to the project site) during the 2011-2013 period

(the most recent years for which data is available) include high levels of ozone, PM_{10}, and $PM_{2.5}$.[44] Violations of the CO standard have not been recorded since 1992.

TABLE 4.4-3
Number of Ambient Air Quality Standards Violations and Highest Concentrations (2010-2012)

Pollutant	Standard	Days Exceeding Standard		
		2011	2012	2013
SAN JOSÉ CENTRAL STATION				
Ozone	State 1-hour	1	1	0
	Federal 8-hour	0	0	1
Carbon Monoxide	Federal 24-hour	0	0	0
	State 24-hour	0	0	0
Nitrogen Dioxide	Federal 24-hour	0	0	0
	State 24-hour	0	0	0
PM_{10}	Federal 24-hour	0	1	0
	State 24-hour	0	0	5
$PM_{2.5}$	Federal 24-hour	3	2	6

Source: Bay Area Management District, Bay Area Air Pollution Summary

Attainment Status

The Federal CAA and the California CAA of 1988 require that CARB, based on air quality monitoring data, designate portions of the state where Federal or State ambient air quality standards are not met as "nonattainment areas". Because of the differences between the Federal and State standards, the designation of "nonattainment area" is different under the Federal and State legislation. Under the California CAA, Santa Clara County is a nonattainment area for O_3 and PM_{10}. The County is either in attainment or unclassified for other pollutants. Under the Federal CAA, the entire Bay Area region is classified as nonattainment for the 24-hour $PM_{2.5}$ standard. The U.S. EPA grades the region as in attainment or unclassified for all other air pollutants, included PM_{10}.

4.4.1.3 Toxic Air Contaminants

Toxic Air Contaminants (TACs) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer or serious illness) and include, but are not limited to, the criteria air pollutants discussed above. TACs are found in ambient air, especially in urban areas, and are caused by motor vehicle and equipment fuel combustion, industry, agriculture, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a highway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state and federal level. The identification, regulation and monitoring of TACs is relatively new compared to criteria air pollutants, which have

[44] PM refers to Particulate Matter. Particulate matter is referred to by size (i.e., 10 or 2.5) because the size of particles is directly linked to their potential for causing health problems.

established ambient air quality standards. TACs are regulated or evaluated on the basis of risk to human health, rather than comparison to an ambient air quality standard or emission-based threshold.

Diesel Particulate Matter

Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air with the potential to cause cancer. It is estimated to represent about two-thirds of the cancer risk from TACs (based on the statewide average). According to the CARB, diesel exhaust is a complex mixture of gases, vapors and fine particles. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the State's Proposition 65 or under the federal Hazardous Air Pollutants programs. California has adopted a comprehensive diesel risk reduction program. The U.S. EPA and the CARB have adopted low-sulfur diesel fuel standards in 2006 that reduce diesel particulate matter substantially. The CARB recently adopted new regulations requiring the retrofit and/or replacement of construction equipment, on-highway diesel trucks and diesel buses in order to lower fine particulate matter ($PM_{2.5}$) emissions and reduce statewide cancer risk from diesel exhaust.

4.4.1.3 Sensitive Receptors

There are groups of people more affected by air pollution than others. CARB has identified the following persons who are most likely to be affected by air pollution: children under 14, the elderly over 65, and people with cardiovascular and chronic respiratory diseases. These groups are classified as sensitive receptors. Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks. For cancer risk assessments, children are the most sensitive receptors, since they are more susceptible to cancer causing TACs. Residential locations are assumed to include infants and small children.

The nearest sensitive receptors to the project site are the residences located adjacent to the western and northern boundaries of the site. The nearest school is more than 1,000 feet from the project site and because of this distance is not considered a sensitive receptor with regard to air emissions from the project site.

4.4.1.4 Applicable Air Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy MS-10.1: Assess projected air emissions from new development in conformance with the BAAQMD CEQA Guidelines and relative to state and federal standards. Identify and implement air emissions reduction measures.

Policy MS-13.1: Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to

construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

Policy MS-12.2: Require new residential development projects and projects categorized as sensitive receptors to be located an adequate distance from facilities that are existing and potential sources of odor. An adequate separation distance will be determined based upon the type, size and operations of the facility.

Policy MS-13.3: Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxic control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

4.4.2 Thresholds of Significance

For the purposes of this EIR, an air quality impact is considered significant if the project would:

- Conflict with or obstruct implementation of the applicable air quality plan;
- Violate any air quality standard or contribute substantially to an existing or projected air quality violation;
- Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable Federal or State ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors);
- Expose sensitive receptors to substantial pollutant concentrations; or
- Create objectionable odors affecting a substantial number of people.

BAAQMD CEQA Guidelines[45] provide the following definitions of a significant air quality impact:

- A cumulatively considerable net increase of any criteria pollutant or a precursor to that pollutant for which the project region is non-attainment under an applicable national or State ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for O_3 precursors). This is judged by comparing direct and indirect project emissions to the BAAQMD significance thresholds of 54 pounds per day for ROG, NOx, or $PM_{2.5}$, and 82 pounds per day for PM_{10}. Annual significance thresholds are 10 tons per year for ROG, NOx, or $PM_{2.5}$, and 15 tons per year for PM_{10}.

- A substantial contribution to an existing or projected violation of an ambient air quality standard would result if the project would cause an exceedance of an ambient air quality standard.

- Expose sensitive receptors or the general public to substantial pollutant concentrations. This is evaluated by assessing the health risk in terms of cancer risk or hazards posed by the placement

[45] Bay Area Air Quality Management District. California Environmental Quality Act, Air Quality Guidelines. 2011. http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Updated-CEQA-Guidelines.aspx

of new sources of air pollutant emissions near existing sensitive receptors or placement of new sensitive receptors near existing sources.

- Create or expose a substantial number of people to objectionable odors. This is evaluated based on the potential for the project to generate odors that could affect nearby sensitive receptors in a manner that would cause frequent complaints.

- Conflict with or obstruct implementation of the applicable air quality plan. This is evaluated by comparing the project effects on projections used in the latest Bay Area CAP and evaluating the plan features that would implement CAP Transportation Control Measures.

- If project emissions of toxic air contaminants or $PM_{2.5}$ exceed any of the thresholds of significance listed below:

    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

- If an existing single-source that has emissions of toxic air contaminants or PM2.5 exceeds any of the thresholds of significance listed below:
    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

- If the aggregate of sources within 1,000 feet that have emissions of toxic air contaminants or PM2.5 exceeds any of the thresholds of significance listed below:
    - An excess cancer risk level of more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
    - An incremental increase of more than 0.8 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

In 2009, BAAQMD published Proposed Thresholds of Significance. The CEQA Guidelines prepared by BAAQMD in 2011 used these significance criteria to evaluate the impacts caused by projects. BAAQMD's adoption of the 2011 thresholds was called into question by a trial court order issued March 5, 2012, in California Building Industry Association v. BAAQMD (Alameda Superior Court Case No. RGI0548693) that determined the adoption of the thresholds was a project under CEQA but did not address the substantive validity, merits or scientific basis of the thresholds. The California Court of Appeal for the Fifth District reversed the trial court decision and the Court of Appeal's decision was appealed to the California Supreme Court, which granted limited review and before whom the matter is pending. BAAQMD is not recommending the use of the 2011 thresholds pending a final judgment.

The issues in the California Building Industry Association v. BAAQMD lawsuit are not relevant to the scientific basis of BAAQMD's analysis of what levels of pollutants should be deemed significant.

The City has determined that the scientific information in BAAQMD's proposed thresholds of significance analysis provides substantial evidence to support the 2011 thresholds and, therefore, has determined the thresholds and methodologies from BAAQMD's May 2011 CEQA Air Quality Guidelines are appropriate for use in this analysis to determine whether there would be any project operational impacts in terms of criteria pollutants, toxic air contaminants and odors. These CEQA Air Quality thresholds were used to evaluate air quality impacts from the project.

4.4.3 Air Quality Impacts

4.4.3.1 Bay Area 2010 Clean Air Plan

Determining consistency with the 2010 Clean Air Plan (CAP) involves assessing whether applicable control measures contained in the 2010 CAP are implemented. Implementation of control measures improve air quality and protect public health. These control measures are organized into five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures (TCMs), Land Use and Local Impact Measures, and Energy and Climate Measures. Applicable control measures and the project's consistency with them are summarized in Table 4.4-4, below. The project supports the primary goals of the Clean Air Plan in that it does not exceed the BAAQMD thresholds for operational air pollutant emissions and is infill development that provides occupants of the site with access to existing transit and services which will reduce vehicle trips. The project is also consistent with the City's Greenhouse Gas Reduction Strategy (refer to Section 4.5, *Greenhouse Gas Emissions*). The proposed project is generally consistent with the control measures.

TABLE 4.4-4
Bay Area 2010 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Improve Bicycle Access and Facilities	Expand bicycle facilities serving transit hubs, employment sites, educational and cultural facilities, residential areas, shopping districts, and other activity centers.	Bike lanes are located adjacent to the site and the project proposes secure bicycle parking spaces for residents. The project, therefore, is consistent with this control measure.
Support Local Land Use Strategies	Promote land use patterns, policies, and infrastructure investments that support mixed-use, transit-oriented development that reduce motor vehicle dependence and facilitate walking, bicycling, and transit use.	The proposed mixed-use development is located within a designated Urban Village in San José within walking distance of existing bus stops. The project will place residents within walking distance of jobs, restaurants, and services. Based on the proposed mix of land uses and existing transportation options available to the site, the project is consistent with this control measure.
Improve Pedestrian Access and Facilities	Improve pedestrian access to transit, employment, and major activity centers.	The project has been designed to be pedestrian oriented and enhance the pedestrian experience. The project is consistent with this control measure.

TABLE 4.4-4 Bay Area 2010 Clean Air Plan Applicable Control Measures		
Control Measures	**Description**	**Project Consistency**
Parking Pricing and Management Strategies	Promote policies to implement market-rate pricing of parking facilities, reduce parking requirements for new development projects, parking "cash-out", unbundling of parking in residential and commercial leases, shared parking at mixed-use facilities, etc.	Per the City's Zoning Ordinance, the project would be required to provide 910 parking spaces. The project proposes 920 parking spaces which exceeds the requirement. The project is generally consistent with this control measure.
Energy and Climate Measures		
Energy Efficiency	Increase efficiency and conservation to decrease fossil fuel use in the Bay Area.	The proposed project would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. The project proposes to achieve minimum LEED certification. Therefore, the project is consistent with this control measure.
Urban Heat Island Mitigation	Mitigate the "urban heat island" effect by promoting the implementation of cool roofing, cool paving, and other strategies.	The project proposes to utilize cool roofs and would be required to comply with the City's Green Building Ordinance which will increase building efficiency over standard construction. Therefore, the project is consistent with this control measure.
Tree-Planting	Promote planting of low-VOC-emitting shade trees to reduce urban heat island effects, save energy, and absorb CO_2 and other air pollutants.	As designed, the project cannot plant a significant number of new trees on-site but will be required to plant some new trees on-site and additional trees off-site which will help with the absorption of air pollutants but will have no measurable effect on the urban heat island effect on-site. The proposed project, therefore, is not wholly consistent with this control measure.

The project includes transportation and energy control measures and is generally consistent with the Clean Air Plan. The project is also consistent with the City's General Plan. The project by itself, therefore, would not result in a significant impact related to consistency with the Bay Area 2010 Clean Air Plan. **(Less Than Significant Impact)**

4.4.3.2 Regional and Local Operational Air Quality Impacts

The project proposes to replace 216 existing apartments on-site with 650 apartments and 10,000 square feet of retail. A detailed air quality assessment was completed to address operational air quality impacts from the proposed increase in development on-site. Operational emissions would be primarily generated by automobiles traveling to/from the site. Table 4.4-5 shows estimated daily air emissions from operation of the proposed project based upon a detailed air analysis using CalEEMod. This analysis assumed full build out of the project would occur in 2018.

TABLE 4.4-5 Operational Emissions for the Project				
Description	**ROG**	**NOx**	**PM_{10}**	**$PM_{2.5}$**
Tons Per Year				
Full Build Out of Proposed Project	6.83	5.25	3.83	1.10
Existing Apartment Complex	1.73	1.57	0.79	0.24
Net Difference	**5.10**	**3.68**	**3.04**	**0.86**
BAAQMD Thresholds	***10***	***10***	***15***	***10***
Pounds Per Day				
Full Build Out of Proposed Project	37.4	28.8	21.0	6.0
Existing Apartment Complex	9.5	8.6	4.3	1.3
Net Difference	**27.9**	**20.2**	**16.7**	**4.7**
BAAQMD Thresholds	***54***	***54***	***82***	***54***

As shown in Table 4.4-5, with or without credit for existing operational emissions, the proposed project will not exceed the daily or annual emissions thresholds established by BAAQMD. As a result, operation of the proposed project will have a less than significant impact on local and regional air quality. **(Less Than Significant Impact)**

Carbon monoxide emissions from traffic generated by the project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high-localized concentrations of CO. BAAQMD screening thresholds indicate that a project would have a less than significant impact to CO levels if project traffic would not increase traffic levels at any affected intersection to more than 44,000 vehicles per hour. The project would result in a net increase of 3,672 total daily traffic trips which is not of sufficient volume to cause any local intersection to exceed 44,000 vehicles per hour. As a result, the project would not result in significant CO impacts. **(Less Than Significant Impact)**

Operational TAC Impacts

Operation of future development on the project site would not be a source of TACs or $PM_{2.5}$ emissions because no new stationary sources of emissions, such emergency back-up diesel generators, are proposed. Therefore, operation of the proposed development would not result in TAC emissions that would impact nearby off-site sensitive receptors. **(Less Than Significant Impact)**

The project proposes to demolish the existing residences and construct up to 650 new residences, thereby increasing the number of sensitive receptors on-site. Within the area of the project site, there is one roadway (Highway 280) and three stationary sources that could adversely affect new residences due to TAC emissions. Based on the BAAQMD guidelines, a project would result in a significant TAC or $PM_{2.5}$ impact if:

- An excess cancer risk level or more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

Impacts from Stationary Sources

Permitted stationary sources of air pollution within 1,000 feet of the project site were identified using BAAQMD's *Stationary Source Risk & Hazard Analysis Tool*. This tool identified three sources that could affect future residents of the project site; two dry cleaners and a gas station. These sites are listed below.

- Sparkle Clean Cleaners – 3128 Williams Road
- Sky Cleaners – 840 Winchester Boulevard
- Shell Gas Station – 1025 Winchester Boulevard

As required by State law, dry cleaners must phase out the use of perchloroethylene (a known TAC) by 2023. Correspondence with both dry cleaning establishments determined that both facilities are using new non-perchloroethylene processes which do not release cancer causing chemicals. Therefore, the dry cleaners would have a less than significant TAC impact on future residents.

The gas station is located approximately 225 feet south of the project site. Based on BAAQMD permitting data, the gas station would result in an excess cancer risk of 1.4 in one million, a hazard index of less than 0.01, and no PM2.5 concentrations.

None of the stationary sources within the project area have emissions levels in excess of BAAQMD thresholds and would have a less than significant impact on future residential development on the project site. **(Less Than Significant Impact)**

Impacts from Mobile Sources

The BAAQMD *Highway Screening Analysis Tool* was used to estimate lifetime cancer risk and hazard impacts from roadways carrying more than 10,000 daily traffic trips. The only roadway within the project area that meets the screening criteria is Winchester Boulevard which has an average daily trip (ADT) volume of approximately 34,520 automobiles in the vicinity of the project site.

Using the BAAQMD *Roadway Screening Analysis Table*, the cancer risk for future residences was estimated based on the following assumptions:

- Residents would be a minimum distance of 10 feet from the roadway
- ADT of 35,000 automobiles

Based on these factors, Winchester Boulevard would have an excess cancer risk of 7.2 in one million, a hazard index of less than 0.03, and PM2.5 concentrations of 0.27 µg/m3. These are below the BAAQMD community risk significance threshold. As a result, traffic volumes on Winchester Boulevard would have a less than significant impact on future residents. **(Less Than Significant Impact)**

4.4.3.3 Construction Impacts

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of diesel particulate matter (an air toxic contaminant[46] due to its potential to cause cancer), organic TACs from all vehicles, and $PM_{2.5}$, which is a regulated air pollutant. The proposed development would exceed the BAAQMD construction screening criteria; therefore, a detailed air quality assessment was completed to address construction air quality impacts from the proposed project.

Table 4.3-6 shows an estimate of daily air emissions from construction of the proposed project based upon a detailed air analysis using CalEEMod. The modeling scenario assumed that the currently proposed project would be built over a 29 month period from 2015 to 2017.

TABLE 4.4-6
Average Daily Construction Emissions from the Project

Description	ROG	NOx	PM_{10}	$PM_{2.5}$
2015 Construction Emissions (tons per year)	0.34	4.50	0.11	0.10
2016 Construction Emissions (tons per year)	2.23	4.36	0.20	0.19
2017 Construction Emissions (tons per year)	5.09	4.46	0.26	0.25
Average Daily Emissions (pounds per day)[47]	24.0	41.8	1.8	1.7
BAAQMD Thresholds (pounds per day)	***54***	***54***	***82***	***54***

Construction of the project would involve demolition of the existing buildings and hardscape, excavation for the underground parking structure, site grading, trenching, paving, building construction, and architectural coating. As shown in Table 4.4-6, the emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust associated with construction of the project would not exceed the BAAQMD significance thresholds and, therefore, would not result in a significant impact from construction emissions.

Construction activities on-site would generate dust and other particulate matter that could temporarily impact nearby sensitive receptors, including on-site residents due to the phasing of project construction. The amount of dust generated would be highly variable and is dependent on the size of the area disturbed at any given time, the amount of activity, soil conditions, and meteorological conditions. Sensitive receptors in the project vicinity could be adversely affected by dust generated during construction activities, particularly $PM_{2.5}$ which is a known TAC. The project will be required to implement BAAQMD dust control measures as a condition of project approval, as outlined below.

During construction, the project shall implement the following Best Management Practices that are required of all projects as Standard Project Conditions:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

[46] A toxic air contaminant is a pollutant that is known or suspected to cause cancer or other serious health effects.
[47] Assumes a total of 638 work days based on an average of 22 work days per month.

2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 mph.

5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.

6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of the above BMPs, project construction activities would not emit significant levels of criteria air pollutants or dust that would affect local and regional air quality or nearby off-site sensitive receptors. **(Less Than Significant Impact)**

Community Risk Impacts - Construction

Construction equipment and associated heavy-duty truck traffic generates diesel exhaust which is a known TAC. The nearest sensitive receptors to the project site are the adjacent residences to the west and north and the nearby residences to the east.

A health risk assessment of project construction activities was completed to evaluate emissions of diesel particulate matter (DPM) and associated health risks to the nearby residential area, including on-site residents due to the phasing of project construction. To quantify the effects of DPM on the nearby sensitive receptors, construction period exhaust emissions were computed using the CalEEMod model. The U.S. EPA AERMOD dispersion model was used to predict concentrations of DPM at existing residences in the vicinity of the project site. The cancer risk calculations were based on applying the BAAQMD recommended age sensitivity factors to the DPM exposures. Age-sensitivity factors reflect the greater sensitivity of infants and young children to cancer causing TACs. The number and types of construction equipment and diesel vehicles, along with the anticipated length of their use for different phases of construction were based on site-specific

construction activity schedules provided by the project applicant. As noted above, construction of the project is expected to occur over a 29 month period from 2015 through 2017.

Neither BAAQMD nor the City of San Jose have significance criteria for construction TAC impacts. As a result, the BAAQMD criteria for operational TAC impacts in the 2011 CEQA Air Quality Guidelines are used by the City of San Jose. Based on these guidelines, a project would result in a significant construction TAC or $PM_{2.5}$ impact if:

- An excess cancer risk level or more than 10 in one million, or a non-cancer (chronic or acute) hazard index greater than 1.0.
- An incremental increase of more than 0.3 micrograms per cubic meter ($\mu g/m^3$) annual average $PM_{2.5}$.

Due to the prevailing wind direction, the maximum concentrations of DPM and PM2.5 would occur on the east side of Winchester Boulevard.

The maximum incremental residential child cancer risk for construction of the proposed project was calculated to be 27.9 cancer cases per million and the adult cancer risk was calculated to be 2.0 cancer cases per million. While the adult cancer risk is well below the BAAQMD threshold of 10 cancer cases per million, the child exposure is not. Because the child cancer risk exceeds 10 cases per million, the proposed project could have a significant community risk impact on nearby sensitive receptors during construction activities. The maximum annual $PM_{2.5}$ concentration was 0.23 micrograms per cubic meter ($\mu g/m^3$). This $PM_{2.5}$ concentration is below the BAAQMD significance threshold of 0.3 $\mu g/m^3$.

Impact AIR-1: Construction of the proposed project would result in a temporary community risk impact. **(Significant Impact)**

4.4.3.4 Odors

The project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity. These emissions may be noticeable from time to time by adjacent receptors. Odors would, however, be localized and are not likely to affect people off-site. Operation of the proposed project would not create significant sources of odors. The project site is not affected by existing odor sources that would cause odor complaints. **(Less Than Significant Impact)**

4.4.4 Mitigation and Avoidance Measures for Air Quality Impacts

The project will be required to implement the following mitigation measures to reduce construction related TAC impacts:

MM AIR 1-1: All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.

MM AIR 1-2: All diesel-powered portable equipment (i.e., air compressors) shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.

MM AIR 1-3: Minimize the number of hours that equipment will operate, including the use of idling restrictions.

Implementation of these mitigation measures will reduce on-site diesel exhaust emissions by approximately 50 percent. Implementation of the dust control measures previously identified would reduce exhaust emissions an additional five percent. With these measures in place, the maximum excess child cancer risk would be 8.4 per million. The required mitigation measures will reduce the temporary construction emissions impact to a less than significant level.

4.4.5 Conclusion

With implementation of the identified mitigation measures and dust control measures, construction of the proposed project would have a less than significant community risk impact. **(Less Than Significant Impact With Mitigation)**

Operation of the project would have a less than significant long-term impact on local and regional air quality. **(Less Than Significant Impact)**

The proposed project would not conflict with or obstruct implementation of the 2010 CAP. **(Less Than Significant Impact)**

4.5 GREENHOUSE GAS EMISSIONS

The following discussion is based, in part, on a greenhouse gas emissions assessment prepared by *Illingworth & Rodkin* in March 2015. The report can be found in Appendix B of this EIR.

4.5.1 Setting

Unlike emissions of criteria and toxic air pollutants, which have local or regional impacts, emissions of Greenhouse Gases (GHGs) have a broader, global impact. Global warming associated with the "greenhouse effect" is a process whereby GHGs accumulating in the atmosphere contribute to an increase in the temperature of the earth's atmosphere. The principal GHGs contributing to global warming and associated climate change are carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and fluorinated compounds. Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the transportation, industrial and manufacturing, utility, residential, commercial, and agricultural sectors.

4.5.2 Existing On-Site GHG Emissions

The project site is currently developed with 216 apartments. The existing buildings are currently occupied and generate GHG emissions from motor vehicles traveling to and from the site, and electricity and natural gas usage for lighting, heating and cooling, etc.

4.5.3 Regulatory Setting

4.5.3.1 State of California

California Assembly Bill 32, CEQA, and Other Laws and Regulations

The Global Warming Solutions Act (also known as "Assembly Bill (AB) 32") sets the State of California's 2020 greenhouse gas (GHG) emissions reduction goal into law. The Act requires that the GHG emissions in California be reduced to 1990 levels by 2020. Prior to adoption of AB 32, the Governor of California also signed Executive Order S-3-05 which identified CalEPA as the lead coordinating State agency for establishing climate change emission reduction targets in California. Under Executive Order S-3-05, the State plans to reduce GHG emissions to 80 percent below 1990 levels by 2050. Additional State law and regulations related to the reduction of GHG emissions includes SB 375, the Sustainable Communities and Climate Protection Act (see discussion below), the State's Renewables Portfolio Standard for Energy Standard (Senate Bill 2X) and fleet-wide passenger car standards (Pavley Regulations).

The California Natural Resources Agency, as required under State law (Public Resources Code Section 21083.05) has amended the State CEQA Guidelines to address the analysis and mitigation of GHG emissions. In these changes to the CEQA Guidelines, Lead Agencies, such as the City of San José, retain discretion to determine the significance of impacts from GHG emissions based upon individual circumstances. Neither CEQA nor the CEQA Guidelines provide a specific methodology for analysis of GHGs and under the amendments to the CEQA Guidelines, a Lead Agency may

describe, calculate, or estimate GHG emissions resulting from a project and use a model and/or qualitative analysis or performance based standards to assess impacts.

Senate Bill 375

Senate Bill 375 (SB 375), also known as the Sustainable Communities and Climate Protection Act of 2008, requires regional transportation plans to include a Sustainable Communities Strategy (SCS) that links transportation and land use planning together into a more comprehensive, integrated process. The SCS is a mechanism for more effectively linking a land use pattern and a transportation system together to make travel more efficient and communities more livable. The result is reduced GHG emissions from passenger vehicles along with other benefits.

The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035. The base year for comparison of emission reductions is 2005. The 2013 Regional Transportation Plan will be the Bay Area's first plan that is subject to SB 375.[48] A draft Jobs-Housing Connection Scenario that is part of the regional planning effort under SB 375 was released on March 9, 2012. The project site is not located within a Priority Development Area, areas where most of the growth in the Bay Area is anticipated to occur.

4.5.3.2 BAAQMD CEQA Guidelines and 2010 Bay Area Clean Air Plan

BAAQMD identifies thresholds of significance for operational GHG emissions from land-use development projects in its CEQA Air Quality Guidelines. These guidelines include recommended significance thresholds, assessment methodologies, and mitigation strategies for GHG emissions. Under the BAAQMD CEQA Guidelines, if a project would result in operational-related GHG emissions of 1,100 metric tons (MT) (also called the "bright line" threshold), or 4.6 metric tons per service population[49] of carbon dioxide equivalents (CO_2e) per year or more, it would make a cumulatively considerable contribution to GHG emissions and result in a cumulatively significant impact to global climate change. In jurisdictions where a qualified Greenhouse Gas Reduction Strategy[50] has been reviewed under CEQA and adopted by decision-makers, compliance with the Greenhouse Gas Reduction Strategy would reduce a project's contribution to cumulative GHG emission impacts to a less than significant level. The BAAQMD CEQA Guidelines also outline a methodology for estimating GHGs.

BAAQMD's Bay Area 2010 Clean Air Plan (CAP) is a multi-pollutant plan that addresses GHG emissions along with other air emissions in the San Francisco Bay Area Air Basin. One of the key objectives in the CAP is climate protection. The 2010 CAP includes emission control measures in

[48] One Bay Area. "One Bay Area Fact Sheet". Accessed September 30, 2014. Available at: <http://www.onebayarea.org/pdf/SB375_OneBayArea-Fact_Sheet2.pdf >

[49] Service population is defined as the sum of the number of residents and the number of employees at the development.

[50] The required components of a "qualified" Greenhouse Gas Reduction Strategy or Plan are described in both the CEQA Guidelines (Section 15183.5 *Tiering and Streamlining the Analysis of Greenhouse Gas Emissions)* and the BAAQMD CEQA Air Quality Guidelines (Section 4.3 *Greenhouse Gas Reduction Strategies*) as amended in June 2010.

five categories: Stationary Source Measures, Mobile Source Measures, Transportation Control Measures, Land Use and Local Impact Measures, and Energy and Climate Measures. Consistency of a project with current control measures is one measure of its consistency with the CAP. The current CAP also includes performance objectives, consistent with the state's climate protection goals under AB 32 and SB 375, designed to reduce emissions of GHGs to 1990 levels by 2020 and 40 percent below 1990 levels by 2035.

4.5.4 Thresholds of Significance

For the purposes of this EIR, a greenhouse gas emissions impact is considered significant if the project would:

- Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

As discussed in CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data.

The first threshold will be assessed using quantitative thresholds for GHG emissions identified by BAAQMD in 2009. Using a methodology that models how new land use development in the San Francisco Bay area can meet Statewide AB 32 GHG reduction goals, BAAQMD identified two significance thresholds for determining if a project will have a significant GHG emissions impact. These thresholds are 1) the "bright-line" threshold of 1,100 metric tons of CO2e per year and 2) the "efficiency" threshold of 4.6 metric tons of CO2e per service population (e.g., residents and employees) per year. Projects which fall below one of the two thresholds are considered to have a less than significant GHG emissions impact.

The City has carefully considered the thresholds prepared by BAAQMD and regards the quantitative thresholds to be based on the best information available for residential and commercial development in the San Francisco Bay Area Air Basin. Evidence supporting these thresholds has been presented in the following documents:

- Bay Area Air Quality Management District (BAAQMD). 2009. *CEQA Thresholds Options and Justification Report.*
- BAAQMD. 2011. *California Environmental Quality Act Air Quality Guidelines*. (Appendix D).
- California Air Resources Board. 2008. *Climate Change Scoping Plan.* (Statewide GHG Emission Targets)

BAAQMD has not identified a threshold of significance for construction-related GHG emissions. GHG emissions from the proposed project would include emissions from construction and operation of the project. The GHG emissions from the project include:

- Construction emissions;
- Emissions from the manufacture and transport of building materials;
- Mobile emissions (e.g., emissions from combustion of fossil fuels for vehicle trips to and from the site); and
- Emissions from the generation of electricity and use of natural gas to operate lighting, appliances, and HVAC on the site, and to convey water to the site.

4.5.5 Greenhouse Gas Emissions Impacts

4.5.5.1 Operational Emissions

The proposed project would allow an increase in development on-site of 434 residential units compared to the existing development for a total of 650 units. The project is consistent with the Land Use/Transportation Diagram.

GHG emissions were calculated using the CalEEMod model, based on an operational start year of 2018. The model calculated estimated emissions for transportation, area sources, electricity consumption, natural gas combustion, electricity usage associated with water usage and wastewater discharge, and solid waste land filling and transport.[51]

TABLE 4.5-1
Annual Project GHG Emissions in Metric Tons (CO_2e)

Source Category	2018 Project Emissions
Area	39
Energy Consumption	1,049
Mobile	3,825
Solid Waste Generation	140
Water Usage	119
Total Emissions Per Year	**5,172**
BAAQMD Bright-Line Threshold	*1,100*
Emissions Per Service Population	**2.6**
BAAQMD Efficiency Threshold	*4.6*

Total site operational emissions were calculated at 5,172 metric tons of CO2e per year, which is a net increase of 3,925 and is above the bright line threshold of 1,100 metric tons of CO2e per year. The calculations found, however, the operation of the entire site would generate 2.6 metric tons (MT) of CO2e per year per service population (2,027)[52], which is below the efficiency threshold of 4.6 MT of CO2e per year. In addition, the project will be subject to the City's Green Building Ordinance which will further reduce GHG emissions. Therefore, the project will not preclude the City or State from meeting emission reduction goals by the horizon year 2020 and will have a less than significant operational GHG impact. **(Less Than Significant Impact)**

[51] The annual GHG emissions in Table 4.5-1 represent the total project emissions, not the net increase in emissions over the existing development. The service population is also representative of the estimated population for the project, not a net increase over the existing resident population.

[52] Project service population is typically the sum of residents and full-time employees. The project's residential service population was estimated based on 3.11 persons per household (2009-2013) from the U.S. Census Bureau data for San Jose. The service population for the retail space was estimated based on 2.5 full-time employees per 1,000 square feet of space.

4.5.5.2 Construction Emissions

The proposed development would result in minor increases in GHGs associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the construction site. Construction-related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Based on available construction data, GHG emissions associated with construction of the project were estimated to be 3,052 MT of CO_2e over the entire construction period (both phases).

Neither the City of San José nor BAAQMD has established a quantitative threshold or standard for determining whether a project's construction-related GHG emissions are significant. Because proposed and future construction project will be a temporary condition and would not result in a permanent increase in emissions that would interfere with the implementation of AB 32, the increase in emissions would be considered less than significant. **(Less Than Significant Impact)**

4.4.5.2 Project Specific Mitigation Measures

No mitigation is required or proposed.

4.4.6 Conclusion

Development of the proposed project would have a less than significant GHG impact. **(Less Than Significant Impact)**

4.6 NOISE

The following analysis is based on a Noise Assessment prepared by *Illingworth & Rodkin* in September 2014. A copy of this report is provided in Appendix C of this EIR.

4.6.1 Existing Setting

4.6.1.1 Background Information - Noise

Noise is typically defined as unwanted sound and is subjective due to varying tolerances. Acceptable levels of noise also vary from land use to land use. In any one location, the noise level will vary over time, from the lowest background or ambient noise level to temporary increases caused by traffic or other sources. State and Federal standards have been established as guidelines for determining the compatibility of a particular land use with its noise environment.

Sound levels are usually measured in decibels (dB) with dB corresponding roughly to the threshold of hearing. Most of the sounds which we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. The method commonly used to quantify environmental sounds consists of evaluating all of the frequencies of a sound in accordance with a weighting that reflects the fact that human hearing is less sensitive at low frequencies and extreme high frequencies than in the frequency mid-range. This is called "A" weighting, and the dB level so measured is call the *A-weighted sound level* (dBA).

Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This energy-equivalent sound/noise descriptor is called L_{eq}. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

Although the A-weighted noise level may adequately indicate the level of environmental noise at any instant in time, community noise levels vary continuously. Most environmental noise includes a conglomeration of noise from distant sources which create a relatively steady background noise in which no particular source is identifiable. To describe the time-varying character of environmental noise, the statistical noise descriptors, L_{01}, L_{10}, L_{50}, and L_{90}, are commonly used. They are the A-weighted noise levels equaled or exceeded during 1, 10, 50, and 90 percent of a stated time period.

Since the sensitivity to noise increases during the evening hours, 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The *Day/Night Average Sound Level, Ldn*, is the average A-weighted noise level during a 24-hour day, obtained after the addition of 10 dB to noise levels measured in the nighttime between 10:00 PM and 7:00 AM.

The most widespread and continual sources of noise in San Jose are transportation and transportation-related facilities. Freeways, local arterials, the Norman Y. Mineta San José

International Airport, railroads, and Light Rail Transit are all major contributors to noise in San Jose. At the project site, automobile traffic is the largest contributor to noise.

Construction Noise

Construction is a temporary source of noise impacting residences and businesses located near construction sites. Construction noise can be significant for short periods of time at any particular location and generates the highest noise levels during grading and excavation, with lower noise levels occurring during building construction. Large pieces of earth-moving equipment, such as graders, scrapers, and bulldozers, generate maximum noise levels of 85 to 90 dBA at a distance of 50 feet. Typically, hourly average construction-generated noise levels are approximately 80 to 85 dBA measured at a distance of 50 feet from the site during busy construction periods. Some construction techniques, such as impact pile driving, can generate very high levels of noise (105 dBA L_{max} at 50 feet) that are difficult to control. Construction activities can elevate noise levels at adjacent businesses and residences by 15 to 20 dBA or more during construction hours. Construction noise decreases by six dBA for every doubling of distance from the noise source.

4.6.1.2 Background Information – Vibration

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. Several different methods are typically used to quantify vibration amplitude. One is the Peak Particle Velocity (PPV) and another is the Root Mean Square (RMS) velocity. The PPV is defined as the maximum instantaneous positive or negative peak of the vibration wave. The RMS velocity is defined as the average of the squared amplitude of the signal. The PPV and RMS vibration velocity amplitudes are used to evaluate human response to vibration. In this section, a PPV descriptor with units of inches per second (in/sec) is used to evaluate construction generated vibration for building damage and human complaints. Table 4.6-1 shows the general reactions of people and the effects on building that continuous vibration levels produce. As with noise, the effects of vibration on individuals is subjective due to varying tolerances.

TABLE 4.6-1
Effects of Vibration

PPV (in/sec)	Human Reaction	Effect on Buildings
0.01	Barely perceptible	No effect
0.04	Distinctly perceptible	Vibration unlikely to cause damage of any type to any structure
0.08	Distinctly perceptible to strongly perceptible	Recommended upper level of vibration to which ruins and ancient monuments should be subjected
0.1	Strongly perceptible	Virtually no risk of damage to normal buildings
0.3	Strongly perceptible to severe	Threshold at which there is a risk of damage to older residential dwellings such as plastered walls or ceilings.
0.5	Severe – vibration considered unpleasant	Threshold at which there is a risk of damage to newer residential structures.

Source: Transportation and Construction-Induced Vibration Guidance Manual, California Department of Transportation, June 2004.

Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, etc. The rattling sound can give rise to exaggerated vibration complaints, even though there is little risk of actual structural damage. In high noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

Construction activities can cause vibration that varies in intensity depending on several factors. The use of pile driving and vibratory compaction equipment typically generates the highest construction related groundborne vibration levels. Because of the impulsive nature of such activities, the use of the PPV descriptor has been routinely used to measure and assess groundborne vibration and almost exclusively to assess the potential of vibration to induce structural damage and the degree of annoyance for humans.

The two primary concerns with construction-induced vibration, the potential to damage a structure and the potential to interfere with the enjoyment of life are evaluated against different vibration limits. Studies have shown that the threshold of perception for average persons is in the range of 0.008 to 0.012 in/sec PPV. Human perception to vibration varies with the individual and is a function of the physical setting and the type of vibration. Persons exposed to elevated ambient vibration levels such as people in an urban environment may tolerate higher vibration levels.

Structural damage can be classified as cosmetic, such as minor cracking of building elements, or may threaten the integrity of the building. Safe vibration limits that can be applied to assess the potential for damaging a structure vary by researcher and there is no general consensus as to what amount of vibration may pose a threat for structure damage to a building. Construction-induced vibration that can be detrimental to a building is very rare and has only been observed in instances where the structure in a high state of disrepair and the construction activities occur immediately adjacent to the structure.

4.6.1.3 Regulatory Background

The State of California and the City of San Jose have established guidelines, regulations, and policies designed to limit noise exposure at noise sensitive land uses. Appendix E of the State CEQA Guidelines, the State of California Building Code, and the City of San Jose's Noise Element of the General Plan present the following applicable criteria:

State CEQA Guidelines. The California Environmental Quality Act (CEQA) contains guidelines to evaluate the significance of effects resulting from a proposed project. These guidelines have been used in this EIR as thresholds for establishing potentially significant noise impacts and are listed under *Thresholds of Significance.*

CEQA does not define what noise level increase would be considered substantial. Typically, project-generated permanent noise level increases of 3 Ldn or greater would be considered significant where exterior noise levels would exceed the normally acceptable noise level standard (60 Ldn). Where noise levels would remain below the normally acceptable noise level standard with the project, permanent noise level increases of 5 Ldn or greater would be considered significant.

San Jose 2040 General Plan. The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The City's noise and land use compatibility guidelines are shown in Table 4.6-2, below. Relevant City policies and municipal code standards are also listed.

TABLE 4.6-2
Proposed General Plan Land Use Compatibility Guidelines (GP Table EC-1)

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

[1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies. Development will only be considered when technically feasible mitigation is identified that is also compatible with relevant design guidelines.

Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

Interior Noise Levels

The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meeting this standard. For sites with exterior noise levels of 60 dBA or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Environmental General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan.

Exterior Noise Levels

For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.

Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.3: Mitigate noise generation of new non-residential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Policy EC-1.6: Regulate the effects of operational noise from existing and new industrial and commercial development on adjacent uses through noise standards in the City's Municipal Code.

Policy EC-1.7: Construction operations within San José will be required to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City's Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

For such large or complex projects, a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

Policy EC-1.11: Require safe and compatible land uses within the Mineta International Airport noise zone (defined by the 65 CNEL contour as set forth in State law) and encourage aircraft operating procedures that minimize noise.

Policy EC-2.3: Require new development to minimize vibration impacts to adjacent uses during demolition and construction. For sensitive historic structures, a vibration limit of 0.08 in/sec PPV will be used to minimize the potential for cosmetic damage to a building. A vibration limit of 0.20 in/sec PPV will be used to minimize the potential for cosmetic damage at buildings of normal conventional construction.

Municipal Code – Construction Standards

According to San José Municipal Code, construction hours within 500 feet of a residential unit are limited to the hours of 7:00 a.m. to 7:00 p.m. on Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval. The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

4.6.1.4 Existing Noise Environment

The project site is located immediately north of Williams Road and immediately west of Winchester Boulevard. A commercial building is located adjacent to the southeast corner of the project site. Single and multi-family housing surrounds the site to the north and west.

Noise in the project area is generated primarily from vehicular traffic on the surrounding roadways. Based on the noise contour maps prepared for the Norman Y. Mineta San Jose International Airport, the project site is not within the existing and projected 60-65 dBA CNEL contour for aircraft noise.

To quantify the existing noise environment, a noise monitoring survey was completed at the site over two days in August 2014. The survey consisted of two long-term measurements (LT-1 and LT-2) and four short-term measurements (ST-1, ST-2, ST-3, and ST-4), the locations of which are shown on the figure above. Tables 4.6-3 and 4.6-4 give a summary of the acoustical locations and measurements.

TABLE 4.6-3
Existing Long Term Noise Measurements

Measurement	Location	Noise Level (in dBA)
LT-1	Adjacent to the south property line, about 60 feet from the centerline of Williams Road and 300 feet from the Williams Road/Winchester Boulevard intersection.	64
LT-2	Adjacent to the east property line, about 65 feet from the centerline of Winchester Blvd.	70

TABLE 4.6-4 Existing Short Term Noise Measurements		
Measurement	**Location**	**Noise Level (in dBA)**
ST-1	The sidewalk at 3166 Neal Avenue, about 25 feet from the centerline of Neal Avenue.	54
ST-2	Approximately 12 feet from the northern property line of the project site.	50
ST-3	Along the western property line, on top of the sound wall.	48
ST-4	The front yard at 913 Opal Drive, about 20 feet from the centerline of Opal Drive.	50

4.6.1.5 Sensitive Receptors

The nearest noise sensitive receptors to the project site are the residences located immediately north and west of the project site and other nearby residences on the east side of Winchester Boulevard and south of Williams Road. The other surrounding buildings are retail/commercial and are not considered sensitive land uses.

4.6.2 Noise Impacts

4.6.2.1 Thresholds of Significance

For the purposes of this EIR, a noise or vibration impact is considered significant if the project would:

- Expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies;
- Expose persons to, or generate excessive groundborne vibration or groundborne noise levels;
- Create a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project;
- Create a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project;
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or
- For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels.

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, of if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three

dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA DNL or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA DNL or greater is considered significant.

City of San Jose Standards

The City of San Jose relies on the following guidelines for new development to avoid impacts above the CEQA thresholds of significance outlined above.

Construction Noise

For temporary construction-related noise to be considered significant, construction noise levels would have to exceed ambient noise levels by five dBA L_{eq} or more and exceed the normally acceptable levels of 60 dBA L_{eq} at the nearest noise-sensitive land uses or 70 dBA L_{eq} at office or commercial land uses for a period of more than 12 months.

Airport Noise

A significant noise impact would occur when noise sensitive land uses are proposed in areas where existing or future noise levels would exceed the noise and land use compatibility standards established by the Santa Clara County Airport Land Use Commission.

Traffic-Generated Noise

Development allowed by the *Envision San Jose 2040 General Plan* would result in increased traffic volumes along roadway throughout San Jose. The City of San Jose considers a significant noise impact to occur where existing noise sensitive land uses would be subject to permanent noise level increases of three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level, or five dBA DNL or more where noise levels would remain "Normally Acceptable".

Construction Vibration

The City of San Jose relies on guidance developed by Caltrans to address vibration impacts from development projects in San Jose. A vibration limit of 12.7 mm/sec (0.5 inches/sec), PPV for buildings structurally sound and designed to modern engineering standards. A conservative vibration limit of 5.0 mm/sec (0.2 inches/sec), PPV has been used for buildings that are found to be structure sounds but structural damage is a major concern. For historic buildings or buildings that are documented to be structurally weakened, a conservative limit of 2.0 mm/sec (0.08 inches/sec), PPV is used to provide the highest level of protection.

4.6.2.2 Noise Impacts to the Project Site

Noise Impacts to Interior Residential Use Areas

The exterior noise level at the front façade of the residential units nearest Winchester Boulevard would be 70 dBA DNL. For units nearest William Road, the exterior noise level would be 65 dBA DNL. The noise levels are above the "normally acceptable" limit of 60 dBA DNL but within the "conditionally acceptable" range for residential land uses. Residential units near the western property line or facing the interior of the site would be exposed to exterior noise levels of less than 60 dBA DNL. Residences exposed to noise levels in excess of 60 dBA DNL could experience interior noise levels in excess of 45 dBA.

Where exterior day-night average noise levels are 65 dBA DNL, interior noise levels of 45 dBA DNL can be achieved with standard construction techniques and the incorporation of forced air mechanical ventilation systems. Where exterior day-night average noise levels are above 65 dBA DNL, sound-rated construction methods are required to achieve an interior noise level of 45 dBA.

Impact NOI-1: Residential units facing Winchester Boulevard and Williams Road may be exposed to noise levels in excess of 45 dBA DNL.

Noise Impacts to Interior Commercial Use Areas

As proposed, the project would have a 10,000 square foot retail/commercial space near the southwest corner of the project site, along the Winchester Boulevard frontage. As noted above, the exterior noise level along the project frontage on Winchester Boulevard is 70 dBA DNL, which is within "normally acceptable" limit of 70 dBA for commercial land uses. Therefore, the proposed retail space will not be impacted by exterior noise levels in the project area. **(No Impact)**

Outdoor Use Areas

As proposed, the project would have two pool decks and five other open space/recreational areas. Some of the residential units would also have balconies. Pursuant to General Plan policy EC-1.1 private balconies in multi-family buildings are excluded from the City's noise standards and will not be discussed further.

One plaza area would be located approximately 200 feet from the center of Winchester Boulevard and would be partially shielded by the project buildings. This area would be exposed to a noise level of 60 dBA DNL. All other open space areas would be interior to the site and the noise exposure would be well below 60 dBA DNL. As a result, the proposed project would have a less than significant noise impact to outdoor use areas. **(Less Than Significant Impact)**

4.6.2.3 Project-Generated Traffic Noise Impacts

Noise exposure levels were evaluated at 27 intersections in the vicinity of the project site to determine if the increase in vehicle traffic caused by the project would cause a substantial increase in the noise

environment. Based on the trip generation rates in the transportation impact analysis for the proposed project, traffic noise levels would increase by less than 1 dBA DNL above existing levels.

Typically, in high noise environments, if the project would cause ambient noise levels to increase by more than three dBA at noise-sensitive receptors, the impact is considered significant. Since the proposed project will not cause an increase in noise levels in the project area of three decibels or

more, it will have a less than significant long-term noise impact on nearby residential land uses. **(Less Than Significant Impact)**

4.6.2.4 Operation Noise From the Project

The placement of commercial and multi-family residential land uses adjacent to existing residential development could result in long-term noise impacts from mechanical equipment and other on-site sources (air conditioning or other mechanical ventilation equipment, delivery loading docks or areas, emergency generators, etc.), which could emanate beyond the site boundaries.

While the proposed project is primarily a residential development, it will include various mechanical equipment such as air conditions, exhaust fans, pool equipment, etc., that could increase ambient noise levels in the immediate project vicinity. There are existing residences adjacent to the northern and western boundaries of the project site.

At this time, the exact location and type of mechanical equipment is unknown. The most substantial noise generating equipment would likely be large exhaust fans and air conditioning units. Because the pools will be located interior to the site and surrounded by the proposed residential buildings, noise from the mechanical equipment within the recreational courtyards would be attenuated by the building and not perceptible at the off-site residences.

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at any property line of residential, commercial, or industrial properties. Specifically, any residential, open space, industrial, or commercial land uses adjacent to a property used or zoned for residential purposes cannot generate noise that exceeds 55 decibels at the shared property line.

In accordance with the *San Jose 2040 General Plan FEIR*, the proposed project will be required by conditions of project approval to implement the following measure:

- A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the city's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study will be incorporated in the project.

With implementation of this project condition, operation of the proposed project would have a less than significant operational noise impact. **(Less Than Significant Impact)**

4.6.2.5 Construction Noise Impacts

Construction activities associated with implementation of the proposed project would temporarily increase noise levels in the project area. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction generated noise levels are about 81 – 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about six dB per doubling of distance between the source and receptor. Construction-related noise levels are normally less during building framing, finishing, and landscaping phases. There would be variations in construction noise levels on a day-to-day basis depending on the activities occurring on the site. Tables 4.5-5 and 4.5-6 list the typical range of construction noise and equipment noise at a distance of 50 feet from the center of a construction site.

TABLE 4.6-5
Typical Range of Construction Noise Levels at 50 Feet from Center of Construction Site (dBA)

Construction Activity	Average Noise Levels
Ground Clearing	83 to 84
Excavation	88 to 89
Foundations	77 to 88
Building Construction	79 to 87
Finishing Work	84 to 89

Source: United States Environmental Protection Agency

TABLE 4.6-6
Typical Range of Construction Equipment Noise at 50 Feet from Center of Construction Site (dBA)

Type of Equipment	Average Noise Levels
Rock Drills	83 to 99
Jack Hammers	75 to 85
Pneumatic Tools	78 to 88
Pumps	68 to 80
Dozers	85 to 90
Tractors	77 to 82
Front-End Loaders	86 to 90
Hydraulic Backhoe	81 to 90
Hydraulic Excavators	81 to 90
Graders	79 to 89
Air Compressors	76 to 86
Trucks	81 to 87

Source: San Jose Downtown Strategy 2000 FEIR

Construction of the proposed project will include demolition of the existing buildings and hardscape, excavation of most of the entire site for two levels of underground parking, and construction of the building. No piles will be utilized in construction of the project. The project is proposed to be constructed in two phases. As a result, tenants remaining in the existing apartments on the northern portion of the site will be exposed to construction noise during construction of the first phase (southern half of the site). Similarly, new tenants occupying the first phase of development will be exposed to construction noise during the second phase (northern half of the site).

Construction of the proposed project would temporarily increase noise levels in the immediate vicinity of the project site and would be audible at the nearby residences, including tenants remaining on-site during the phased development, and could pose a significant impact. The project will be constructed in two phases over a cumulative period of 30 months (including interior finishing work and landscaping which generates significantly lower noise levels than demolition, grading, and exterior building construction). Major construction work requiring the use of heavy equipment for take approximately 7.5 months for Phase One and approximately one year for Phase Two. The *San*

Jose 2040 General Plan FEIR concluded that temporary construction noise would be mitigated by adherence to the Municipal Code and identified General Plan policies.

In accordance with the *San Jose 2040 General Plan FEIR*, particularly Policy EC-1.7, the proposed project will be required by conditions of project approval to implement the following measures during all phases of construction on the project site:

- Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 AM to 7 PM Monday through Friday, non-holidays only, consistent with the San Jose Municipal Code (Section 20.100.450).

- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA. Staging areas shall be located a minimum of 200 feet from noise-sensitive receptors, such as residential units.

- The contractor shall use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.

- Construct solid plywood fences around the construction site where it is adjacent to operational businesses, residences, or noise-sensitive land uses.

- If impact equipment (e.g., jack hammers, pavement breakers, rock drills) is needed during construction of the proposed project, hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically-powered tools. However, where use of pneumatically-powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. External jackets on the tools themselves shall also be used if available and feasible.

- The developer will implement the following measures to minimize construction noise impacts on the surrounding sensitive land uses to the fullest extent possible. The measures may include, but are not limited to, the following:
    - Early and frequent notification and communication with the neighborhood of the construction activities and construction schedule.
    - Prohibit unnecessary idling of internal combustion engines.
    - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
    - Best available noise control practices (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all equipment and trucks in order to minimize construction noise impacts.

- A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning, Building and Code Enforcement regarding the schedule. The disturbance coordinator would be responsible for determining the cause of the noise complaints and instituting reasonable measures warranted to correct the problem.

Implementation of the above Standard Permit Conditions would reduce construction noise levels originating from the site, limit construction hours, and minimize disruption and annoyance. With implementation of these project conditions, the temporary increase in ambient noise levels would be less than significant. **(Less Than Significant Impact)**

4.6.2.6 Construction Vibration Impacts

TABLE 4.6-7
Vibration Source Levels for Construction Equipment

Equipment	PPV at 25 feet (in/sec)	Approximate Lv at 25 ft. (VdB)
Clam Shovel Drop	0.202	94
Hydromill (slurry wall)		
-In Soil	0.008	66
-In Rock	0.017	75
Vibratory Roller	0.210	94
Hoe Ram	0.089	87
Large Bulldozer	0.089	87
Caisson Drilling	0.089	87
Loaded Trucks	0.076	86
Jackhammer	0.035	79
Small Bulldozer	0.003	58

Source: Transit Noise and Vibration Impact Assessment, United States Department of Transportation, Office of Planning and Environment, Federal Transit Administration, May 2006

Construction of the proposed project will require the use of heavy equipment for demolition, excavation, moving of construction materials, etc. Pile driving would not be required and is not proposed as part of the project.

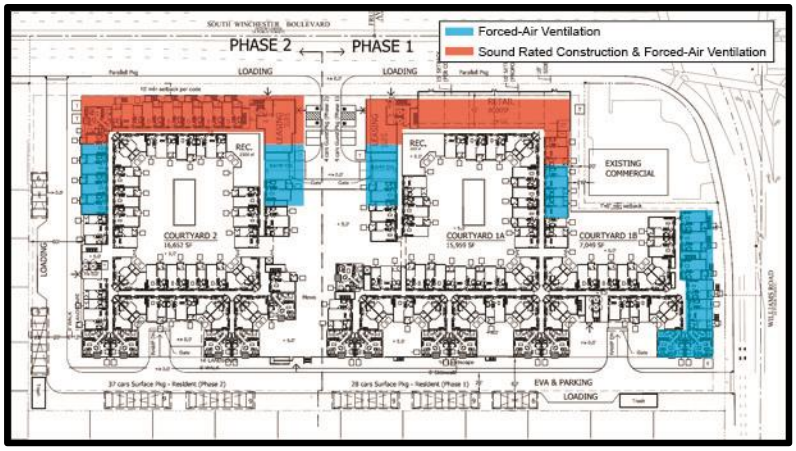
Construction activities such as drilling, use of jackhammers, rock drills and other high-power or vibratory tools, and rolling stock equipment such as tracked vehicles, compactors, etc. may generate substantial vibration in the immediate site vicinity. The vibration levels of various construction equipment is listed in Table 4.6-7.

There are no historic buildings in the vicinity of the project site. The nearest contemporary buildings to the project site are the residential units located approximately 70 feet north and 100 feet west of the proposed building. Construction activities would not exceed the 0.20 in/sec PPV criteria established by the City at a distance of 50 feet. While vibration from construction activities would, at times, be perceptible at the project site property lines, the equipment would not exceed the City's threshold for potential cosmetic damage to buildings of normal conventional construction and the project would have a less than significant vibration impact. **(Less Than Significant Impact)**

4.6.3 Mitigation and Avoidance Measures for Noise Impacts

MM NOI-1.1: In accordance with the *San Jose 2040 General Plan FEIR,* particularly Policy EC-1.1, the proposed project will be required by conditions of project approval to implement the following mitigation measures prior to issuance of buildings permits:

- Sound rated construction methods shall be required for residential units fronting Winchester Boulevard, to maintain interior noise levels at 45 dBA DNL or less. Additional treatments may include, but are not limited to, sound rated wall construction, acoustical caulking, insulation, acoustical vents, etc. A preliminary review of the project plans and elevations indicates that windows and doors with a minimum Sound Transmission Class (STC)[53] rating of 26 to 28 would be needed at units along Winchester Boulevard. The specific determination of what noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) are necessary will be completed by a qualified acoustical consultant on a unit by unit basis for those units identified as being impacted by exterior noise levels of 70 dBA DNL (as shown in the adjacent figure – Figure 4 from Appendix C, *Environmental Noise Assessment*). Results of the analysis, including the description of the necessary noise control treatment, will be submitted to the City along with the building plans and approved prior to issuance of any building permits.



- A suitable forced-air mechanical ventilation system, as determined by the Department of Planning, Building and Code Enforcement, for units nearest Winchester Boulevard and Williams Road will be installed to ensure that interior noise standards are met. The units required to have forced-air mechanical ventilation systems are shown on the figure above. The project developer will be required to submit a findings report by a qualified acoustical consultant verifying the interior noise levels of the affected units prior to the issuance of occupancy permits.

Conformance with these mitigation measures will result in a less than significant noise impact on future site residents. **(Less Than Significant Impact With Mitigation)**

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[53] **Sound Transmission Class (STC)** A single figure rating designed to give an estimate of the sound insulation properties of a partition. Numerically, STC represents the number of decibels of speech sound reduction from one side of the partition to the other. The STC is intended for use when speech and office noise constitute the principal noise problem.

4.6.4 Conclusion

Implementation of the proposed project conditions and conformance with General Plan policies will reduce noise impacts to existing sensitive land uses and future site residents. **(Less than Significant Impact)**

4.7 AESTHETICS

4.7.1 Setting

The project site is currently developed with 216 two-story garden apartments constructed in 1971. The building facades are a mix of stucco and vertical sidings and each unit includes a fenced balcony or patio (Photo 1). Exterior staircases provide access to the second floor units. The buildings have varying roof lines accented with large eaves. The buildings are grouped together which allows for extensive landscaping throughout the site. Articulated planter beds are located around the buildings and are planted with small trees and shrubs. Lawns fill in the areas between the buildings, and the site has a very dense canopy of trees. The street frontages are also landscaped with trees, shrubs, and grass. The site is well maintained.

Access to the site is provided by three driveways: gated entries on S. Winchester Boulevard and Williams Road that access the parking area along the northern and western boundaries and a public driveway on S. Winchester Boulevard that accesses the visitor parking lot (Photo 2). Most of the parking areas along the northern and western boundaries are covered carports.

A freestanding five-foot sign is located next to the driveway of the visitor's parking lot.

Adjacent Roadways

South Winchester Boulevard, which runs along the eastern boundary of the site, is a six-lane roadway with a median strip landscaped with mature trees and shrubs. Sidewalks with street trees extend on both sides of the road.

Williams Road, which runs along the southern boundary of the site, is a four-lane roadway with designated bike lanes. Sidewalks are located on both sides of the roadway. Street trees are only located on the south side of the road.

4.7.1.2 Surrounding Land Uses

The project area is primarily residential with commercial development along S. Winchester Boulevard including one-story commercial buildings and a gas station on the southwest corner of S. Winchester Boulevard and Williams Road.

The older commercial lots have buildings set back from the street frontage by landscaping and/or parking lots while the newer commercial areas have the buildings closer to the street frontage. Commercial signs ranging from 10 to 30 feet tall are located along the street frontage.

Adjacent to the southeast corner of the project site is a mid-1970's one-story commercial building occupied by a 7-Eleven store (Photo 3). The building is concrete with a flat roof, large eaves and a multi-color paint scheme. Landscaping and a large parking lot are located along the street frontage.

PHOTO 1: Photo 1 View of the project site, looking west from S. Winchester Boulevard.

PHOTO 2: View of the project site, looking north from Williams Road.

PHOTOS 1 AND 2

PHOTO 3: View of a commercial business, looking northwest from the intersection of S. Winchester Boulevard and Williams Road.

PHOTO 4: View of a commercial business, looking south from Williams Road.

PHOTOS 3 AND 4

PHOTO 5: View of a gas station, looking south from Williams Road.

PHOTO 6: View of a four-story apartment, looking northeast from the intersection of S. Winchester Boulevard and Magliocco Drive.

PHOTOS 5 AND 6

PHOTO 7: View of townhouses along S. Winchester Boulevard, looking east from S. Winchester Boulevard.

PHOTO 8: View of a single-family house west of the project site, looking east from Opal Drive.

PHOTOS 7 AND 8

A one-story retail center is located at the southwest corner of S. Winchester Boulevard and Williams Road. The buildings are distinguished by glass doors and large glass windows and are set back from the roadway by a surface parking lot. (Photo 4). All the buildings have stucco facades. The gas station is typical of gas stations in San José with a one-story building that includes a convenience store and an automotive service area. The self-serve gas pumps are located under a flat metal canopy. Landscaping, advertisement signage, and parking areas are located along the Williams Road and S. Winchester Boulevard frontages (Photo 5).

The residential neighborhoods in the project area vary in style and include single-family houses, duplexes, townhouses, and apartments. The tallest residential building in the project area is an Italian-inspired four-story apartment building located at the intersection of S. Winchester Boulevard and Magliocco Drive (approximately 650 feet northeast of the project site). The building has a varied roof line with a center arch, a variegated façade and various shapes and sizes of windows. The building has a roof trim, an earth tone stucco façade, and a prominent ramp to an underground parking garage (Photo 6). The nearest townhouses, located across S. Winchester Boulevard from the project site, are two-story detached residences with gabled red tile roofs, stucco facades, and gated front patios with street trees and a sidewalk along the street frontage (Photo 7). The apartments and townhouses on Winchester Boulevard are of more recent construction than the surrounding residential development.

Unlike the apartment and townhouses, the single-family and older multi-family residences in the project area are set back from the roadway by driveways and landscaping. While the style of the houses varies in roof shape and material and façade material, the dominant characteristics include a hip or gabled roof, a covered porch or entrance, and sidings and/or brick material on the building façade. (Photo 8).

4.7.1.3 Applicable Aesthetic Regulations and Policies

The *Envision San Jose 2040 General Plan* includes policies applicable to all development projects in San Jose.

Policy CD-1.1: Require the highest standards of architecture and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Policy CD-10.2: Require that new public and private development adjacent to Gateways and freeways (including 101, 880, 680, 280, 17, 85, 237, and 87), and Grand Boulevards consist of high-quality materials, and contribute to a positive image of San Jose.

4.7.2 Visual Impacts

4.7.2.1 Thresholds of Significance

For the purposes of this EIR, a visual impact is considered significant if the project would:

- Have a substantial adverse effect on a scenic vista;

- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway;
- Substantially degrade the existing visual character or quality of the site and its surroundings; or
- Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

4.7.2.1 Aesthetic Impacts

Generally, visual effects discussed in a CEQA document would be of two types: impacts from the project's appearance and what views, if any, it would obscure.

Aesthetic values are subjective. Opinions as to what constitutes a degradation of visual character will differ among individuals. The best available statement of what constitutes a visually acceptable standard for new structures is the Design Guidelines and policies adopted by the City Council. Development on-site will be reviewed for consistency with applicable design guidelines and policies prior to issuance of planning permits.

As with all CEQA impacts, the effects of a project must be considered in the physical context of the project site and they must be compared to the existing conditions. The project is not proposed in a pristine natural environment or a rural area, but in an established urban community.

Scenic Vistas and Resources

The General Plan FEIR determined that scenic vistas in the City are views of the Santa Clara Valley and the surrounding hillsides. The scenic vistas can be viewed from Communications Hill, extensions of Silver Creek Hills, and the Santa Teresa Hills. In addition, views of the valley and the hillsides are visible from public roadways in these areas. The project site is not located in proximity to any scenic vistas. There are no views of the Diablo Mountain Range from the public roadways immediately west of the project site and no views of the Santa Cruz Mountains from Winchester Boulevard adjacent to the project site.

The project site is not located in a designated scenic area or corridor as defined by the General Plan. In addition, private views are not protected scenic resources under CEQA. Because there are no scenic vistas or designated scenic resources in proximity to the site, the construction of a four- to six-story building would not damage or diminish scenic views in the project area. **(No Impact)**

Visual Character

The project area is a mix of architectural styles with no particular design aesthetic being dominant. Because there is no predominant architectural style in the project area, the proposed building design would be compatible with the mixed visual character of the area. The proposed project site is located within a mixed residential and commercial area in San José. Because the proposed buildings would be taller than any other buildings in the immediate project area, the project would change the visual character of the area.

The General Plan FEIR concluded that new development and redevelopment under the General Plan would alter the appearance of the City; however, implementation of adopted policies and existing regulations, including the City's Design Guidelines, would reduce the degradation of visual character or quality of the City to a less than significant level. Development on the proposed project site would comply with the adopted plans, policies and regulations outlined in the General Plan FEIR. Therefore, the proposed project would have a less than significant impact on the visual character or quality of the City. **(Less Than Significant Impact)**

Light and Glare

The project would include outdoor security lighting on the site, along driveways, entrance areas, and within the surface parking lot. The outside lighting would be comparable in brightness to the ambient lighting in the surrounding area and the current lighting conditions on the project site.

The General Plan FEIR states that new development and redevelopment must comply with adopted policies, regulations, and General Plan Policies to avoid substantial light and glare impacts. The proposed project will be in compliance with the General Plan policies and City Council Lighting Policy 4-2 to avoid substantial light and glare impacts. Thus, the proposed project would not create significant impacts to adjacent properties with nighttime lighting or daytime glare from building materials. **(Less than significant impact)**

4.7.2.2 Mitigation and Avoidance Measures for Visual and Aesthetic Impacts

No project specific mitigation is required or proposed.

4.7.3 Conclusion

The project would have no impacts on designated scenic vistas or resources. **(No Impact)**

Compliance with adopted General Plan policies would result in a less than significant impact on the visual character of the project area. The project would not create significant additional sources of light or glare. The project would not result in any significant visual impacts. **(Less Than Significant Impact)**

4.8 GEOLOGY AND SOILS

The following discussion is based in part on a *Geotechnical Report* prepared by Rockridge Geotechnical in April 2014. The report is attached in Appendix D.

4.8.1 Setting

4.8.1.1 Geology and Soils

The project site is located in the Santa Clara Valley, a relatively flat alluvial basin south of the San Francisco Bay, north and northeast of the Santa Cruz Mountains, and west of the Diablo Mountain Range. Soils at the site consist of Holocene alluvial fan deposits, a mixture of fine grained sand, silt, and clay. Soil borings up to 37 feet below the ground surface (bgs) show primarily stiff to hard clay soils with dispersed layers of sand and silt. Very dense sandy soils were encountered between 37 feet and 44.5 feet bgs. Based on historic records, the highest groundwater levels on the project site were at 50 feet bgs.[54]

4.8.1.2 Seismicity and Seismic Hazards

The San Francisco Bay Area is one of the most seismically active region in the United States. Strong ground shaking can be expected at the site during moderate to severe earthquakes in the general region. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well defined active fault zones of the San Andreas Fault System.

The project area is not located within the Alquist-Priolo Earthquake Fault Zone[55], the Santa Clara County Geologic Hazard Zone, the City of San José Potential Hazard Zone[56] and no active faults have been mapped on the project site. The risk of fault rupture is low. Faults in the region are, however, capable of generating earthquakes of magnitude 7.0 or higher and strong to very strong ground shaking would be expected to occur at the project site during a major earthquake on one of the nearby faults. Active faults near the project site are shown in Table 4.8-1.

TABLE 4.8-1
Active Faults Near the Project Site

Fault	Distance from Site
Monte Vista – Shannon	4.3 miles
San Andreas (Santa Cruz)	8.1 miles
San Andreas (Peninsula)	13 miles
Hayward	18 miles
Hayward-Rodgers Creek	18 miles
Calaveras	19 miles

[54] California Geologic Survey. *Seismic Hazard Zone Report for the San José West Quadrangle*. February 2002.
[55] California Department of Conservation Website. <http://gmw.consrv.ca.gov/shmp/download/evalrpt/sjosw_eval.pdf> Accessed September 30, 2014.
[56] Santa Clara County, *Santa Clara County Geologic Hazard Zones*, Map 20, 2002. <http://www.sccgov.org/sites/planning/GIS/GeoHazardZones/Documents/GeohazardMapsATLAS2.pdf> Accessed September 30, 2014.

4.8.1.3 Liquefaction and Lateral Spreading

Liquefaction

Liquefaction occurs when water-saturated soils lose structural integrity due to seismic activity. Factors that contribute to liquefaction include soil age, soil type, soil cohesion, soil density, and depth to groundwater. Soils that are more susceptible to liquefaction have the characteristics of loose to medium dense sand and gravel, low-plasticity silt, and low-plasticity clay deposits. The project site is not located in a liquefaction zone.[57]

Lateral Spreading

Lateral spreading is a type of ground failure related to liquefaction. It consists of the horizontal ground movement of flat-lying soil deposits towards a free face (i.e. an excavation, river channel, or open sea). The project site is flat and is not adjacent to a waterway or any other unsupported face. Therefore, the potential for lateral spreading is low.

Mineral Resources

Mineral resources known to exist in and near the Santa Clara Valley include cement, sand, gravel, crushed rock, clay, and limestone. Santa Clara County has also supplied a significant portion of the nation's mercury over the past century. Pursuant to the mandate of the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated the Communications Hill Area, bounded generally by the Union Pacific Railroad, Curtner Avenue, State Route 87, and Hillsdale Avenue as a source of construction aggregate materials.

Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San Jose as containing mineral deposits which are either of statewide significance or the significance of which requires further evaluation. Therefore, other than the Communications Hill area cited above, San Jose does not have mineral deposits subject to SMARA. Communications Hill is approximately five miles southeast of the project site.

4.8.2 Regulatory Framework

Development within the City of San Jose is subject to various Federal, State, and local regulations aimed at reducing potential impacts of geologic and seismic hazards to people, property, and the environment. As described in Section 4.9, *Hydrology and Water Quality*, erosion control is regulated by the Federal Clean Water Act, State of California Porter Cologne Water Quality Act, the National Pollutant Discharge Elimination System (NPDES), and City policies 6-29 and 8-14.

The California Alquist-Priolo Earthquake Fault Zoning Act requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones) around the surface traces of active faults and to

[57] California Geological Survey. *State of California, Seismic Hazard Zones, San José West Quadrangle – Map.* February 7, 2002.

issue appropriate maps. Local agencies must regulate the construction of buildings used for human occupancy in these zones.

The California Building Code (in Title 24, California Code of Regulations) serves as the basis for the design and construction of buildings in the state. Currently, the 2013 California Building Code contains provisions for earthquake safety based on factors including occupancy type, soil and rock profile, the strength of the ground, and distance to seismic resources.

4.8.2.1 City of San Jose Municipal Code

Title 24 of the San Jose Municipal Code includes the 2013 California Building, Plumbing, Mechanical, Electrical, Existing Building, Historical Building, and Green Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.04 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works muse issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones.

4.8.2.2 Envision San Jose 2040 General Plan

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy EC-3.1: Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

Policy EC-4.1: Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

Policy EC-4.2: Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

Policy EC-4.4: Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

Policy EC-4.5: Ensure that any development activity that requires grading does not impact adjacent properties, local creeks, and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development

projects that have a soil disturbance of one acre or more, adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

Action EC-4.11: Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

Action EC-4.12: Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

Policy ES-4.9: Permit development only in those areas where potential danger to health, safety, and welfare of the persons in that area can be mitigated to an acceptable level.

4.8.3 Geologic and Soils Impacts

4.8.3.1 Thresholds of Significance

For the purposes of this EIR, a geologic impact is considered significant if the project would:

- Expose people or structures to substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure (including liquefaction), landslides, or expansive soils;
- Cause substantial soil erosion or the loss of topsoil;
- Expose people or property to major geologic hazards that cannot be mitigated through the use of standard engineering design and seismic safety techniques;
- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

4.8.3.2 Geological Impacts

The project site and surrounding areas are relatively flat and, as a result, the project would not be exposed to landslide or erosion related hazards. The project site is not located within a liquefaction zone and is not in proximity to a free face surface, such as a creek. Therefore, potential for liquefaction and lateral spreading during large seismic events are low.

Soils near the surface have a moderate to high expansion potential, which would affect the proposed residential units, commercial space, and underground parking structure. The geotechnical report included recommendations regarding the design of building and parking foundations (e.g., floor slabs), site preparation, and excavation. The proposed project would be built and maintained in accordance with a design-specific geotechnical report and applicable regulations including the most recent California Building Code which contains the regulations that govern the construction of structures in California. The General Plan FEIR concluded that adherence to the California Building Code would reduce geologic impacts to a less than significant level.

Because the proposed project would comply with the site-specific geotechnical report, the California Building Code, and regulations identified in the General Plan that ensure geologic hazards are mitigated, the project would not result in a significant geologic impact. **(Less Than Significant Impact)**

The project site is located within an urbanized area of San José where sewers are available to dispose wastewater from the project site. Therefore, the site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.8.3.3 Construction Impacts

Ground disturbance would be required for demolition of the existing buildings and hardscape, grading, excavation of the underground parking structure, and construction of the proposed project. Excavation for the parking structure in particular would result in extensive ground disturbance. It is estimated that 140,000 cubic feet of soil will need to be excavated and off-hauled for construction of the parking structure. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation at the site until construction is complete.

The City's NPDES General Construction Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The General Plan FEIR concluded that with the regulatory programs currently in place, the possible impacts of accelerated erosion during construction would be less than significant. The City would require the project to comply with all applicable City regulatory programs pertaining to construction related erosion including the following Standard Permit Conditions for avoiding and reducing construction related erosion impacts.

Standard Permit Conditions

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

Because the project would comply with above Standard Permit Conditions, implementation of the proposed project would have a less than significant soil erosion impact. **(Less Than Significant Impact)**

4.8.4 Mitigation and Avoidance Measures for Geology and Soils Impacts

No project specific information is required or proposed.

4.8.5 Conclusion

The project would comply with the California Building Code, applicable General Plan policies, recommendations in the site-specific geotechnical report, and identified Standard Permit Conditions to ensure that development of the project would result in a less than significant geology and soils impact. **(Less Than Significant Impact)**

Since sewers are available to dispose wastewater from the project site, the soil on-site would not need to support septic tanks or alternative wastewater disposal systems. **(No Impact)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Setting

4.9.1.1 Flooding

Based on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (Map 06085C0237H), the project site is located in Flood Zone D. Zone D is an area of undetermined but possible flood hazard that is outside the 100-year floodplain.

4.9.1.2 Dam Failure

Based on the Association of Bay Area Governments (ABAG) dam failure inundation hazard maps, the project site is located within a dam inundation hazard zone of Lexington Reservoir.[58]

4.9.1.3 Seiches, Tsunamis, and Mudflows

There are no landlocked bodies of water near the project site that will affect the site in the event of a seiche. There are no bodies of water near the project site that will affect the site in the event of a tsunami.[59] The project area is flat and there are no mountains in proximity that will affect the site in the event of a mudflow.

4.9.1.4 Storm Drainage System

The City of San José owns and maintains the municipal storm drainage system which serves the project site. The lines that serve the project site drain into Los Gatos Creek. Los Gatos Creek flows into the Guadalupe River which carries stormwater from the storm drains into San Francisco Bay. The creek is approximately 1.28 miles southeast of the project site. Therefore, there is no overland stormwater flow from the project site to any waterway.

Currently, 79 percent of the project site is covered with impervious surfaces. The pervious surface area is comprised entirely of landscaping around the buildings, along the western boundary of the site, and the street frontages. There are existing storm drain lines in S. Winchester Boulevard that would serve the proposed development.

4.9.1.5 Water Quality

As stated above, stormwater from the project site drains to Los Gatos Creek. The water quality of Los Gatos Creek is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban land uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from

[58] Association of Bay Area Governments. *Dam Failure Inundation Hazard Map for NW San José/Milpitas/Santa Clara.* 1995. <http://www.abag.ca.gov/cgi-bin/pickdamx.pl>. Accessed September 2, 2014.
[59] Association of Bay Area Governments. *Tsunami Inundation Emergency Planning Map for the San Francisco Bay Region.* <http://quake.abag.ca.gov/tsunamis>. Accessed September 2, 2014.

the Environmental Protection Agency (EPA)[60], Los Gatos Creek is currently listed on the California 303(d) list[61] and the Total Maximum Daily Load (TMDL) high priority schedule for pesticides, specifically Diazinon.[62]

Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the City of San José is the San Francisco Regional Water Quality Control Board (RWQCB).

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of San José. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires all of the post-construction runoff to be treated using Low Impact Development (LID) treatment controls, such as biotreatment facilities. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) assists co-permittees, such as the City of San José, in implementing the provisions of the Municipal NPDES Permit.

City of San José Post-Construction Urban Runoff Management (Policy 6-29)

The City of San José's Policy 6-29, updated in 2011, implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. The City of San José's Policy 6-29 requires all new and redevelopment projects to implement post-construction Best Management Practices (BMPs) and Treatment Control Measures (TCMs) such as Low Impact

[60] U.S. Environmental Protection Agency. *California 303(d) Listed Waters.* http://ofmpub.epa.gov/waters10/attains_state.control?p_state=CA&p_cycle=2010 Accessed September 2, 2014.
[61] The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies.
[62] A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

Development (LID) measures to treat stormwater runoff. These measures are also utilized to reduce the total amount of stormwater runoff from a site. Site design measures are able to reduce stormwater runoff from the site while LID minimizes stormwater pollutant discharges. This policy also established specific design standards for post-construction TCMs for projects that create, add, or replace 10,000 square feet or more of impervious surfaces.

Hydromodification

In addition to water quality controls, the Municipal Regional Stormwater NPDES permit requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in subwatersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Permittees Hydromodification Management Applicability Map).

City of San José Hydromodification Management (Policy 8-14)

The City of San José's Policy 8-14 implements the stormwater treatment requirements of Provision C.3 of the Municipal Regional Stormwater NPDES Permit. Policy 8-14 requires all new and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. The policy requires these projects to be designed to control project-related hydromodification through a Hydromodification Management Plan (HMP).

Based on the SCVUPPP watershed map for the City of San José, the project site is exempt from the NPDES hydromodification requirements, because it is located in an area where stormwater is drained into hardened channel or tidal areas.[63] The project must comply with Policy 8-14 as it is applicable at the Development Permit stage.

4.9.1.6 Groundwater

Based on the geotechnical report for the site (see *Section 4.8*), groundwater is approximately 50 feet bgs.

4.9.1.7 Applicable Hydrology and Water Quality Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

[63] Santa Clara Valley Urban Runoff Pollution Prevention Program web site. http://www.scvurppp-w2k.com/hmp_maps.htm Accessed September 2, 2014.

Policy ER-8.1: Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

Policy ER-8.3: Ensure that private development in San José includes adequate measures to treat stormwater runoff.

Policy ER-8.5: Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

Policy EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

4.9.2 Hydrology Impacts

4.9.2.1 Thresholds of Significance

For the purposes of this EIR, a hydrology, drainage, or flooding impact is considered significant if the project would:

- Violate any water quality standards or waste discharge requirements;
- Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table (e.g., the production rate of preexisting nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted);
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
- Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site;
- Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;
- Otherwise substantially degrade water quality;
- Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map;
- Place within a 100-year flood hazard area structures which would impede or redirect flood flows;
- Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or
- Inundation of the site by seiche, tsunami, or mudflow.

4.9.2.2 Flooding Impacts

Based on the FEMA flood insurance rate maps, the project site is outside the 100-year floodplain. As a result, implementation of the proposed project will not expose people or structures to significant flood hazards. **(Less Than Significant Impact)**

Based on the ABAG Dam Failure Inundation Hazards Maps, the project site is located within the Lexington Reservoir dam failure inundation area. Inundation areas, as identified in the General Plan FEIR, assume complete failure of the dam with a full reservoir that is completely emptied. The California Department of Water Resources, Division of Safety of Dams (DSOD) is responsible for regular inspection of dams in California to ensure compliance with California Code of Regulations, Title 23 Water. In addition, the SCVWD monitors and studies each of the 10 dams in its jurisdiction, including the dam at Lexington Reservoir.

The project site is located approximately 7.8 miles from the reservoir and the General Plan FEIR concluded that with the regulatory programs currently in place, the potential impacts of dam failure would be less than significant. Therefore, the proposed project would have a less than significant flood hazard impact due to dam failure. **(Less Than Significant Impact)**

4.9.2.3 Water Quality Impacts

Construction Impacts

The proposed development will disturb approximately 7.68 acres of land area, which is above the one acre threshold. Construction of the proposed project would require compliance with the NPDES General Permit for Construction Activities.

Demolition and construction activities would temporarily increase the amount of debris on-site and grading activities would increase the potential for erosion and sedimentation that could be carried by runoff into the San Francisco Bay. As a result, construction activities on-site would result in a temporary increase in stormwater runoff pollutants. All development projects in San José must comply with the City's Grading Ordinance. The City of San José Grading Ordinance requires the use of erosion and sediment controls to protect water quality while a site is under construction. Prior to issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the applicant will be required to submit an Erosion Control Plan to the Director of Public Works for review and approval. The Plan must detail the BMPs that would be implemented to prevent the discharge of stormwater pollutants.

Pursuant to the City's requirements, the following Standard Permit Conditions, based on RWQCB recommendations, have been included in the project to reduce potential construction-related water quality impacts:

Standard Permit Conditions

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered.
- All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily with water sweepers.
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from construction activities would have a less than significant impact on stormwater quality. Because construction of the proposed project would include the Standard Permit Conditions identified above, and would be required by the City to comply with the regulatory programs, the project would have a less than significant construction-related water quality impact. **(Less Than Significant Impact)**

Post-Construction Impacts

Under existing conditions, the project site is approximately 79 percent impervious. Upon completion of the proposed development, the project site will be approximately 89 percent impervious. The project would add and replace more than 10,000 square feet of impervious surfaces. Therefore, the project will be required to comply with the City of San José's Post-Construction Urban Runoff Policy 6-29 and the RWQCB Municipal Regional Stormwater permit. In order to meet these requirements, the project proposes bioretention, self-treating, and self-retaining areas on-site.[64] Stormwater runoff will drain into the treatment areas prior to entering the storm drainage system. The proposed treatment facility will be numerically sized to limit peak storm flows to pre-project levels and will have sufficient capacity to treat the roof and parking lot runoff entering the storm drainage system, consistent with the NPDES requirements.

The General Plan FEIR concluded that with the regulatory programs currently in place, stormwater runoff from new development would have a less than significant impact on stormwater quality. With implementation of a Stormwater Control Plan consistent with RWQCB and compliance with the City's regulatory policies pertaining to stormwater runoff, operation of the proposed project would have a less than significant water quality impact. **(Less Than Significant Impact)**

[64] Self-treating areas are landscaped areas that catch runoff and drains into the storm drain. Self-retaining areas can retain the first inch of rainfall without producing runoff.

4.9.2.4 Storm Drainage Impacts

Table 4.9-1, below, gives a breakdown of the pervious and impervious surfaces on the project site under both existing and project conditions.

Table 4.9-1
Pervious and Impervious Surfaces On-Site

Site Surface	Existing/Pre-Construction (SF)	%	Project/Post-Construction (SF)	%	Difference (SF)	%
Impervious						
Building Area	83,360	25	229,044	68	+145,684	+44
Parking Area	120,280	36	50,897	15	-69,383	-21
Hardscape	60,000	18	19,040	6	-40,960	-12
Subtotal	263,640	79	298,981	89	+35,341	+11
Pervious						
Pervious Surfaces	70,901	21	35,560	11	-35,341	-11
Total	334,541	100	334,541	100		

Under existing conditions, approximately 263,640 square feet (79 percent) of the project site is covered with impervious surfaces. Under project conditions, impervious surfaces would increase to approximately 298,981 square feet (89 percent). Therefore, implementation of the project would result in an eleven percent increase in impervious surfaces at the project site which will result in a net increase in stormwater runoff.

The General Plan FEIR concluded that although new development may increase impervious surfaces, with planned improvements to the City storm drainage system and the implementation of stormwater BMPs, new development would not significantly impact the storm drainage system. Because the project will be required to conform to all applicable City policies, including Policy 6-29, the project would not exceed the capacity of the local drainage system. **(Less Than Significant Impact)**

4.9.2.5 Groundwater Impacts

With implementation of the proposed project, the quantity of impervious surfaces on the project site would increase by eleven percent compared to the existing condition. The project site does not presently contribute to recharging of the groundwater aquifers and this condition will not change once the proposed development is complete. As a result, implementation of the proposed project would not interfere with groundwater recharge or cause a reduction in the overall groundwater supply. **(Less Than Significant Impact)**

Groundwater levels have been recorded at a minimum of 50 feet bgs on-site. Construction of the proposed project will include trenching for new on-site utility lines and excavation for the underground parking structure and would not extend more than 20 feet bgs. Therefore, the proposed development would not interfere with the groundwater aquifer or groundwater flow and would not impact the deeper groundwater aquifers. **(Less Than Significant Impact)**

4.9.3 Mitigation and Avoidance Measures for Hydrology Impacts

No project specific mitigation is required or proposed.

4.9.4 Conclusion

Implementation of the proposed project would have a less than significant hydrology impact. **(Less Than Significant Impact)**

4.10 BIOLOGICAL RESOURCES

The following discussion is based in part on a tree survey prepared by HortScience in July 2014. A copy of the report is attached in Appendix E.

4.10.1 Regulatory Setting

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species identified as rare, threatened, or endangered under the State and/or Federal Endangered Species Act, and the natural communities of habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complimentary to various Federal, State, and local laws and regulations that are designed to protect these resources. These regulations often mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts required as permit conditions, prior to the commencement of development activities.

4.10.1.1 City of San José Tree Ordinance

The City of San José Tree Removal Controls (San José City Code Section 13.32.010 to 13.32.100) protect all trees having a trunk that measures 56 inches or more in circumference (17.8 inches in diameter) at a height of 24 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City of San José for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance can be designated as a Heritage tree, regardless of tree size or species. It is unlawful to vandalize, mutilate, remove, or destroy Heritage trees.

4.10.2 Existing Setting

4.10.2.1 Special Status Animal Species

Special status species are those plants and animals listed under the State and Federal Endangered Species Acts (ESAs); plants listed on the California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California (1994); and animals designated as Species of Special Concern by the California Department of Fish and Wildlife. Most special status animal species occurring in the Bay Area use habitats that are not present on-site. Salt marsh, freshwater marsh, serpentine grassland, and riparian habitats are not present on the project site. Since the native vegetation of the area is no longer present on-site, native wildlife species have been supplanted by species that are more compatible with an urbanized area.

4.10.2.2 Trees

Trees (both native and non-native) are valuable to the human environment for the benefits they provide including resistance to global climate change (i.e., carbon dioxide absorption), protection

from weather, nesting and foraging habitat for raptors and other migratory birds, and as a visual enhancement to the urban environment. A tree survey was completed to document and evaluate the trees on-site.

Trees located on the project site are a mixture of native and non-native species, in varying sizes and levels of health. In accordance with City policy, as mentioned previously in Section 4.10.1.1, trees that are a minimum of 17.8 inches in diameter at 24 inches above the natural grade, as well as Heritage Trees, are protected from removal without a permit. Within the boundaries of the project site, there are a total of 235 trees as shown in Table 4.10-1. A full list of trees by size and species is provided in Appendix E.

TABLE 4.10-1
Trees On-Site

Species	Quantity	Species	Quantity
magnolia	50	Eugenia	3
ironbark	33	camphor	2
Ash	27	Monterey pine	2
fern pine	22	Chinese elm	2
silver dollar gum	12	boxelder	1
Carolina cherry	11	Japanese maple	1
juniper	9	bottlebrush	1
Mexican fan palm	9	river she-oak	1
London plane	9	fig	1
crape myrtle	8	mayten	1
redwood	6	oleander	1
pear	5	almond	1
Victorian box	4	coast live oak	1
Japanese privet	4	queen palm	1
holly	3	Siberian elm	1
Brazilian pepper	3		

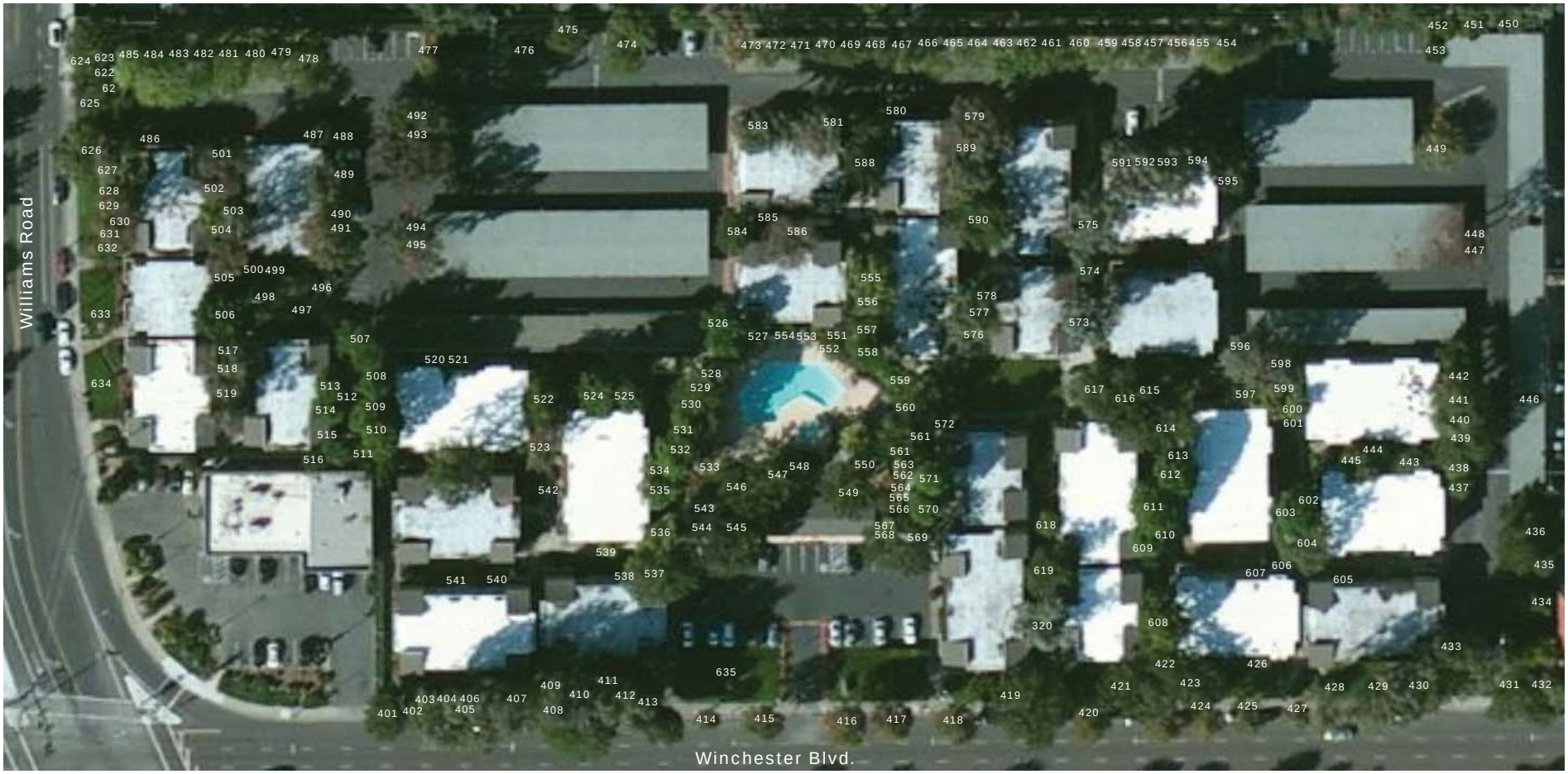
Of the 235 tree on-site, 131 are ordinance sized. The redwood trees are considered native to San José.[65] The location of the trees is shown on the tree map in Figure 10. The numbers on the tree map correspond to the numbers on the tree table in Appendix E.

4.10.2.3 Applicable Biological Regulations and Policies

Santa Clara Valley Habitat Plan/Natural Community Conservation Plan

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan was developed through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), U.S.

[65] Redwood trees are native to Santa Clara County except for the valley floor, however, the City of San José has listed redwood trees as native to the City. Therefore, the City's standard procedures for removal of native trees will apply to the redwood trees on-site.



TREE MAP

FIGURE A6

Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). It is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County.

The project site is located within the Santa Clara Valley Habitat Conservation Plan (HCP) area which is defined as the area where all covered activities would occur, impacts were evaluated, and conservation activities would be implemented. Covered activities are public and private projects or ongoing activities that will receive incidental take authorization by the ESA and Natural Community Conservation Plan (NCCP) permits for impacts to threatened and endangered species and associated habitats. Covered activities in the HCP fall into seven general categories:

- Urban development;
- In-stream capital projects;
- In-stream operations and maintenance;
- Rural capital projects outside streams;
- Rural development;
- Rural operation and maintenance of public infrastructure outside streams; and
- Conservation strategy implementation (i.e., activities within the lands managed, enhanced, restored, and monitored to conserve the natural resources targeted by this Plan).

The project site has a designation of Urban Development according to the HCP Land Use Category and is subject to the conditions, fees, and avoidance and minimization measures, in order to be considered a covered activity and eligible for take authorization under the plan. This Plan utilizes a variety of private and public development-based fees to fund mitigation that will offset losses of land cover types, covered species habitat, and other biological values. These one-time fees pay for the full cost of mitigating project effects on the covered species and natural communities.

Envision San José 2040 General Plan

The *Envision San José 2040 General Plan* includes the following policy applicable to all development projects in San José:

Policy MS-21.4: Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

Policy MS-21.5: As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse affect on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.

Policy MS-21.6: As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

4.10.3 Vegetation and Wildlife Impacts

4.10.3.1 Thresholds of Significance

For the purposes of this EIR, a vegetation and wildlife impact is considered significant if the project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.10.3.2 Biological Resource Impacts

Vegetation, Habitats, and Wildlife

Due to the fact that the site is fully development and there are currently no sensitive or natural habitats on the project site, no significant impacts to natural plant communities or special status or endangered species would result from the project. In addition, there are no wetlands located on the project site. The nearest riparian corridor, Los Gatos Creek, is approximately 1.28 miles southeast of the site. Therefore, the proposed project would not adversely affect special status species, riparian habitat, or wetland habitat. **(Less Than Significant Impact)**

Raptor Impacts

While the project site is located within an urban environment, the mature trees on-site and on the adjacent properties could provide nesting and/or foraging habitat for migratory birds.

Migratory birds, like nesting raptors, are protected under the Migratory Bird Treaty Act and the California Department of Fish and Game Code Sections 3503, 3503.5, and 2800. Construction

activities, including equipment noise and tree removal, may result in the loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. The California Department of Fish and Wildlife (CDFW)[66] defines "taking" as causing abandonment and/or loss of reproductive efforts through disturbance.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs or nest abandonment from the mature trees on and adjacent to the site. **(Significant Impact)**

410.3.3 Trees

While the project site is developed, there are numerous trees on-site that are part of the urban forest. Within the City of San José, the urban forest as a whole is considered an important biological resource because most mature trees provide some nesting, cover, and foraging habitat for a variety of birds (including raptors) and mammals that are tolerant of humans, as well as providing necessary habitat for beneficial insects. Although the urban forest is not the best environment for native wildlife, trees in the urban forest are often the only or best habitat commonly or locally available within urban areas. Based on a tree removal map provided by the project applicant, development of the proposed project would result in the removal of 192 trees on-site, 107 of which are ordinance size trees.

As a condition of approval, trees removed as a result of the project would be required to be replaced in accordance with all applicable laws, policies, or guidelines, including:

- City of San José Tree Protection Ordinance
- San José Municipal Code Section 13.28

- General Plan Policies MS-21.4, MS-21.5, and MS-21.6

In accordance with City policy, tree replacement would be implemented as shown in Table 4.10-2, below.

TABLE 4.10-2
City of San José Standard Tree Replacement Ratios

Diameter of Tree to Be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio
Note: Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

Out of 191 trees to be removed, one Chinese elm was determined to be dead and is not considered part of the tree replacement ratio. Of the remaining 190 trees, one tree would be replaced at a 5:1

[66] Formerly the California Department of Fish and Game.

ratio, 92 trees would be replaced at a 4:1 ratio, two trees would be replaced at a 3:1 ratio, and 38 trees would be replaced at a 2:1 ratio; with a minimum 24-inch box trees. A total of 57 trees would be replaced at 1:1 ratio with a minimum of 15-gallon containers. The total tree replacement for the project would be 455 24-inch box trees and 57 15-gallon trees.

The species of trees to be planted on-site would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

The proposed project would be required to meet the minimum tree replacement standard on-site to the extent feasible. Since the project site does not have sufficient area to accommodate the required tree mitigation on-site, one or more of the following measures would be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of Planning, Building and Code Enforcement.

- A donation of $300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

The proposed project would be required to meet the minimum tree replacement standard through a combination of on-site tree plantings and alternative requirements as noted above. The General Plan FEIR concluded that compliance with local laws, policies, and guidelines would reduce impacts to the urban forest to a less than significant level. **(Less Than Significant Impact)**

Construction Impacts – On-Site Trees

The project proposes to retain 43 trees on-site. These trees could be damage during construction of the project.

Impact BIO-2: Construction activities associated with the proposed project could result in the damage or loss of the 43 trees proposed to be retained on-site. **(Significant Impact)**

Construction Impacts – Off-Site Trees

There are trees adjacent to the western and northern boundary of the project site. Although these trees are off-site, their root systems and canopies could be impacted by construction activities due to proximity to the project boundary. The following Standard Permit Conditions are included in the project to reduce impacts to off-site trees during all construction activities, such as clearing, grading, demolition, excavation, and building:

Standard Permit Conditions

- To the extent feasible, no site clearing, grading, excavation, or construction shall occur within the drip line of existing off-site trees.

- If site clearing, grading, excavation, or construction must occur within the drip line of existing off-site trees, these activities shall be done under direct supervision of a Certified Arborist (Certification of International Society of Arboriculture). No cutting of any part of off-site trees, including roots, shall be done without direct supervision of the Certified Arborist and prior notification of the owners of the trees.

- Materials, equipment, temporary buildings, fuels, paints, and other construction items shall not be placed within the drip line of existing off-site trees.

- Any cutting of existing off-site tree roots shall be done with light, approved equipment under the direct supervision of the Certified Arborist.

- Grading shall not create drainage problems for off-site trees by channeling water into them, or creating sunken areas.

If off-site trees become damaged during construction activities, the trees will be replaced according to the tree replacement ratios in Table 4.10-2. The location and species of replacement trees will be at the discretion of the City Arborist and the Department of Planning, Building and Code Enforcement.

With the supervision of site clearing and construction activities near the off-site trees by a Certified Arborist and implementation of the aforementioned measures in accordance with International Society of Arboriculture standards and Standard Permit Conditions, adverse impacts to adjacent trees would be avoided. **(Less Than Significant Impact)**

4.10.3.4 Habitat Conservation Plan

The 7.68-acre project site is within the Santa Clara Valley Habitat Conservation Plan (HCP) area and is subject to the HCP. The site is located within an urbanized area and is developed with buildings, surface parking, and hardscape and, therefore, lacks the suitable habitat for burrowing owls or any other species covered by the HCP. Pursuant to the Plan, no site specific biological surveys are required. The HCP does, however, require the project to pay a nitrogen deposition fee based on the ~~net~~ increase in daily traffic to/from the project. With the fee payment, the project would not have a significant impact on the HCP. **(Less Than Significant Impact)**

4.10.4 Mitigation and Avoidance Measures for Biological Impacts

4.10.4.1 Nesting Birds

The following project specific mitigation measures will be implemented during construction to avoid abandonment of raptor and other protected migratory birds nests:

MM BIO 1-1: Construction shall be scheduled to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31.

MM BIO 1-2: If it is not possible to schedule demolition and construction between September and January, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests will be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the later part of the breeding season (May 1 through August 31). During this survey, the ornithologist will inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with California Department of Fish and Wildlife, will determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction, until the birds are fledged.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors would be less than significant. **(Less Than Significant Impact With Mitigation)**

4.10.4.2 Trees

To ensure that construction activities would not damage these trees, the following mitigation and avoidance measures would be implemented during pre-construction and construction of the proposed project:

MM BIO 2-1: Prior to any construction on-site, the contractors working in the vicinity of trees to be preserved are required to meet with a Certified Arborist at the site to review all work procedures, access routes, storage areas, and tree protection measures.

MM BIO 2-2: Prior to demolition, vegetation removal, or grading, establish a Tree Protection Zone around the trees, based on the outside edge of existing sidewalk cut-out planting space or the tree canopy.

- Install hay bales around the trunk or erect fencing at the outside edge of the cut-out. Use wooden fencing; orange plastic is not permitted.

MM BIO 2-3: Trees to be removed shall be felled so as to fall away from any Tree Protection Zones and avoid pulling and breaking of roots of trees to remain. If roots are entwined, under the direction of a Certified Arborist, the major

woody root mass shall require severing before extracting the trees, or grinding the stump below ground.

MM BIO 2-4: Design irrigation systems so that no trenching will occur within the Tree Protection Zone.

MM BIO 2-5: Route underground services including utilities, sub-drains, water, or sewer around the Tree Protection Zone. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury.

MM BIO 2-6: Use herbicides that are safe for the trees on-site, even below pavement.

MM BIO 2-7: Trees to be preserved must be irrigated during the construction period. The irrigation schedule to be determined by a Certified Arborist. The soil within the Tree Protection Zone shall be irrigated so that the soil will be wet to a depth of 30". Irrigate each tree weekly during months with no or low rainfall.

MM BIO 2-8: Any grading, construction, demolition, or other work that would encounter roots of trees to be preserved shall be monitored by a Certified Arborist.

MM BIO 2-9: If injury occurs to any tree during construction, it shall be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.

MM BIO 2-10: Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the project superintendent.

The project would incorporate all the identified measures to ensure the preservation of the 43 existing trees to remain on-site. If construction activities inadvertently damage the trees, the project would be required to implement the City's tree replacement ratios for these additional trees, as discussed in Section 4.10.3.3. Therefore, the project would result in a less than significant impact to on-site trees due to construction activities. **(Less Than Significant Impact With Mitigation)**

4.10.5 Conclusion

Construction activities associated with the proposed project could result in the loss of fertile eggs or nest abandonment from the mature trees on and adjacent to the site. The project will implement mitigation measures to identify and protect active nests if construction occurs during the breeding season. With implementation of the proposed mitigations, the project would have a less than significant impact on nesting raptors and other migratory birds. **(Less Than Significant Impact With Mitigation)**

Construction activities associated with the proposed project could damage 43 trees proposed to be preserved on-site and adjacent off-site trees. The project will implement the identified mitigation measures and standard permit conditions to ensure that the trees will be protected during construction

activities. Therefore, the project would result in a less than significant impact to the nine trees to be preserved on-site and off-site trees. **(Less Than Significant Impact With Mitigation)**

Implementation of the proposed project would result in the loss of 191 trees, including 107 ordinance sized trees, on the project site. As a condition of project approval, trees removed as a result of the project would be required to be replaced in accordance with the City's Tree Protection Ordinance, Municipal Code, and General Plan. As a result, the project will have a less than significant impact on trees. **(Less Than Significant Impact)**

4.11 HAZARDS AND HAZARDOUS MATERIALS

The following analysis is based on a Phase I Environmental Site Assessment Report prepared by *Partner Assessment Corporation, Inc.* in July 2, 2014. A copy of the report is attached in Appendix F.

4.11.1 Regulatory Framework

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are man-made. Examples include pesticides, herbicides, petroleum products, metals (lead, mercury, arsenic, etc.), asbestos, and chemical compounds used in manufacturing and industrial processes. Due to the fact that hazardous substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs designed to minimize the chance for unintended releases and/or exposures to occur. Other programs establish remediation requirements where soils and/or groundwater contamination has occurred. The net result of regulatory control programs and institutional controls is the reduced likelihood of chemical releases and reduced likelihood of off-site migration of hazardous materials in the event of a release.

The United States Environmental Protection Agency (EPA) is the Federal administering agency for hazardous waste programs. State agencies include the California Environmental Protection Agency (Cal/EPA), Department of Toxic Substances Control (DTSC), State Water Resources Control Board (SWRCB), and the California Air Resources Board (CARB). Regional agencies include the San Francisco Bay Regional Water Quality Control Board (RWQCB), and the Bay Area Air Quality Management District (BAAQMD). Local agencies including the San Jose Fire Department (SJFD) and the Santa Clara County Department of Environmental Health (SCCDEH) have been granted the responsibility for implementation and enforcement of many hazardous materials regulations under the Certified Unified Program Agency (CUPA) program. The Santa Clara Valley Water District (SCVWD) monitors groundwater quality and supports groundwater clean-up efforts.

Existing City regulations that reduce or avoid impacts with hazards and hazardous materials include:

- City of San Jose Hazardous Materials Release Response Plans and Inventory
- City of San Jose Hazardous Materials Storage Ordinance and Toxic Gas Ordinance
- City of San Jose Building and Fire Codes
- City of San Jose Municipal Code (Chapters 6.14, 17.12, 17.88, and 20.80)

Hazardous waste generators and hazardous materials users in the City are also required to comply with regulations enforced by several Federal, State, and County agencies. The regulations are designed to reduce the risk associated with the human exposure to hazardous materials and minimize adverse environmental effects. State and Federal construction worker health and safety regulations require protective measures during construction activities where workers may be exposed to asbestos, lead, and/or other hazardous materials.

4.11.2 Existing Setting

The 7.68-acre project site is currently developed with 216 garden apartments, a leasing office, a community building and pool area, surface parking lots, and landscaping. The site is located in a residential and commercial area of San José. Los Gatos Creek, the nearest waterway, is 1.28 miles southeast of the project site and the Mineta San José International Airport is 3.19 miles northeast of the project site.

According to historic records, groundwater is estimated at 50 feet bgs on-site and flows in a north/northwest direction.[67]

4.11.2.1 Historical Uses of the Project Site and Surrounding Area

The land use history of the project area was documented through the review of aerial photographs, topographic maps, and City directories dating back to 1899. The project site was vacant in 1899 and was part of an orchard with a residence (most likely a farmhouse) on the northern portion of the site from approximately 1939 to 1968. By 1971, the current apartment complex was under construction. The apartment complex expanded to its current capacity of 216 units in 1977. Aside from household cleaning supplies and landscape maintenance chemicals and equipment, there are no hazardous materials stored or used on-site.

Similar to the project site, the project area was primarily orchards in 1939. In 1956, residences developed east and west of the project site. While residential neighborhoods are the primary development in the area since the mid-1950s, commercial businesses have also expanded along S. Winchester Boulevard and Williams Road since the mid-1970s. Current businesses in the project area include offices, restaurants, a convenience store, dry cleaners, a recycling business, a gas and car wash station, and a shopping center.

4.11.2.2 On-Site Sources of Contamination

As noted above, the project site was part of an orchard until 1968 when it was first developed with multi-family residences. The existing apartment complex was completed in 1976 and has continued as a residential use with no major modifications to present day. In 2001, oil was accidentally released on-site by the Green Team, a recycling and garbage collection service contracted by the City of San José. The SJFD required soil sample analysis of the spill area and underlying soils, however, current documentation of the analysis was not found at the time of the Phase I report.

On-site sources of pollutants include likely residual soil contamination from past agricultural activities[68] and the accidental release of oil into the soil in 2001.

[67] Groundwater depth is estimated from historic record levels.
[68] Even with development of the project site in the 1970's, there is the potential for residual agricultural contamination in the native soils on-site.

Asbestos and Lead Paint in Buildings

Friable asbestos is any asbestos containing material (ACM) that, when dry, can easily be crumbled or pulverized to a powder by hand, allowing the asbestos particles to become airborne. Common examples of products that have been found to contain friable asbestos include acoustical ceilings, plaster, wallboard, and thermal insulation for water heaters and pipes. Non-friable ACMs are materials that contain a binder or hardening agent that does not allow the asbestos particles to become airborne easily. Common examples of non-friable ACMs are asphalt roofing shingles, vinyl asbestos floor tiles, and transite siding[69] made with cement. Non-friable ACMs can pose the same hazard as friable asbestos during remodeling, repairs, or other construction activities that would damage the material. Use of friable asbestos products was banned in 1978.

Another hazardous material commonly found in older buildings is lead-based paint. In 1978, the Consumer Products Safety Commission banned paint and other surface coating materials containing lead. Since the buildings on the project site were built prior to 1978, it is assumed that ACMs and/or lead based paints are present in the structures.

4.11.2.3 Off-Site Sources of Contamination

The Phase I Environmental Site Assessment identified previously documented and current known hazardous materials locations in proximity to the project site. Table 4.11-1 lists the location, site, and a description of known activities within a one-eighth mile radius of the project site. Because the concentration of hazardous materials traveling via groundwater dissipates over distance, hazardous materials sites beyond a one-eighth mile radius are assumed to not have a significant impact on the project site.

TABLE 4.11-1
Hazardous Materials Sites Within 1/8 Mile Radius of Project Site

	Database Listing and Agencies	Business Name and Site Address	Site Description
1.	EDR US HIST AUTO STAT	(Former) Cur Lin Coin Laundry 870 S. Winchester Boulevard 0.01 miles E cross gradient	Former facility utilized hazardous materials from 1986 to 1995. Currently developed with residences. No open violations.
2.	EDR US HIST AUTO STAT	(Former) Delia's Cleaners and Drapery 947 S. Winchester Boulevard 0.01 miles S up gradient	Former facility utilized hazardous materials from 1986 to 1989. No open violations.
3.	SAN JOSÉ HAZMAT, CUPA	Sprint 3120 Williams Road 0.11 miles S up gradient	A commercial business that sells electronic/mobile devices and accessories (e.g., cell phones, tablets, and chargers) within a shopping center. No open violations.
4.	DRYCLEANERS, RCRA-SQG, HAZNET, FINDS, SAN JOSÉ HAZMAT, CUPA, DRYCLEANERS	Sparkle Cleaners 3128 Williams Road 0.11 miles S up gradient	Drycleaners since 1969. Use tetrachloroethene (PCE) and DF2000. No open violations.

[69] Transite siding is an exterior cement-board siding that contains asbestos.

TABLE 4.11-1 Hazardous Materials Sites Within 1/8 Mile Radius of Project Site			
Database Listing and Agencies		**Business Name and Site Address**	**Site Description**
5.	SWRCY	Contain-A-Way Inc. 3140 Williams Road 0.12 miles S up gradient	A recycling facility with no open violations.

HIST - historic databases that are no longer updated
CUPA - Certified Unified Program Agency
EMI - Emissions Inventory
FINDS - Facility Index System for multiple federal databases (i.e., RCRIS, CERCLIS, FURS, TRIS, TSCA)
DRYCLEANERS - drycleaner facilities regulated by EPA
HAZNET- Hazardous Waste Manifests
LQG - Large Quantity Generator
LUST- Leaking Underground Storage Tank
RCRA - Resource Conservation and Recovery Act SAN JOSE
HAZMAT- San José Hazardous Materials Facilities
SQG-Small Quantity Generator
SWEEPS UST- Statewide Environmental Evaluation and Planning System
SWRCY- recycling facilities in California
EDR US HIST AUTO STAT- EDR's High risk historic records
HIST CORTESE - Contaminated Water Wells

4.11.2.4 Applicable Hazards and Hazardous Materials Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy CD-5.8: Comply with applicable Federal Aviation Administration regulations identifying maximum heights for obstructions to promote air safety.

Policy EC-7.1: For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

Policy EC-7.2: Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

Policy EC-7.4: On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-based paint and asbestos containing materials, shall be implemented in accordance with state and federal laws and regulations.

Policy EC-7.5: In development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and State requirements.

Action EC-7.8: When an environmental review process identifies the presence of hazardous materials on a proposed development site, the City will ensure that feasible mitigation measures that will satisfactorily reduce impacts to human health and safety and to the environment are required of or incorporated into the projects. This applies to hazard materials found in the soil, groundwater, soil vapor, or in existing structures.

Action EC-7.9: Ensure coordination with the County of Santa Clara Department of Environmental Health, Regional Water Quality Control Board, Department of Toxic Substances Control or other applicable regulatory agencies, as appropriate, on projects with contaminated soil and/or groundwater or where historical or active regulatory oversight exists.

Action EC-7.10: Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards navigation.

4.11.3 Hazardous Materials Impacts

4.11.3.1 Thresholds of Significance

For the purposes of this EIR, a hazardous materials impact is considered significant if the project would:

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials;
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment;
- Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school;
- Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment;
- For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area;
- For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area;
- Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

4.11.3.2 Soil Contamination Impacts

Since 1971, the project site has been developed with residential uses. Chemicals associated with residential development, including cleaning and landscape maintenance supplies, have not been used or stored in sufficient quantity or concentration to result in a significant soil or groundwater impact on-site. In 2001, a recycling collection service accidentally released oil on-site. Since documentation for soil analysis of the oil spill has not been identified at the time of this report, it is assumed that the shallow soils within the spill area are contaminated.

Agricultural Land Uses

The project site was used as agricultural land for at least 29 years. Because of past agricultural uses on-site, it is reasonable to assume that pesticides and other agricultural chemicals were used as part of the normal agricultural operations. Even on developed land, it is common to find arsenic, lead, and dichlorodiphenyltrichloroethane (DDT) residue in the soil in Santa Clara County from historic farming operations.

Development of the proposed project would require demolition of existing hardscape, excavation for the underground parking garage and utilities, and the disturbance of soil which could result in impacts to construction workers exposed to soil contamination. Once the project is complete, most of the exposed soil will be capped with the buildings, hardscape, and surface parking. Landscaping would be located along the street frontages and the western and northern boundaries of the site, resulting in some direct soil exposure for residents and future maintenance workers on-site.

Impact HAZ-1: Implementation of the proposed project could expose construction workers, future on-site maintenance workers, and current and future residents to contaminated soils.[70] **(Significant Impact)**

Asbestos-Containing Materials and Lead-Based Paint Impacts

The buildings on-site were constructed prior to 1978 and, based on previous surveys, have materials that contain ACMs and lead-based paint. The project proposes to demolish the existing buildings on-site which could release asbestos particles and expose construction workers and nearby residents to harmful levels of asbestos. As a result, an asbestos survey must be conducted under the National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines. The project would be required to remove all potentially friable ACMs prior to building demolition that may disturb the ACMs.

If lead-based paint is still bonded to the building materials, its removal is not required prior to demolition. It will be necessary to follow the requirements outlined by Cal-OSHA Lead in Construction Standard, Title 8, California Code of Regulation (CCR) 1532.1 during demolition activities; these requirements include employee training, employee air monitoring, and dust control. If lead based paint is peeling, flaking, or blistered, it will be removed prior to demolition. It is

[70] The proposed project would demolish the existing apartment complex and construct the residential development in two phases.

assumed that such paint will become separated from the building components during demolition activities and must be managed and disposed of as a separate waste stream. Any debris or soil containing lead paint or coating must be disposed of at landfills that are permitted to accept such waste.

The project is required to conform to the following regulatory programs and to implement the following Standard Permit Conditions to reduce impacts due to the presence of ACMs and/or lead-based paint:

Standard Permit Conditions

- In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.

- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

The project would implement the identified Standard Permit Conditions and would result in a less than significant impact from ACMs and lead. **(Less Than Significant Impact)**

Future Operations

Operation of the proposed project would likely include the use and storage on-site of cleaning supplies and maintenance chemicals in small quantities, consistent with operation of the existing apartment complex. No other hazardous materials would be used or stored on-site. The small quantities of cleaning supplies and maintenance chemicals that would be used on-site would not pose a risk to on-site residents, workers, or adjacent land uses. **(Less Than Significant Impact)**

4.11.3.3 Off-Site Soil and Groundwater Contamination Impacts

There are five hazardous materials sites within an eighth-mile radius of the project site. One of the sites is cross-gradient and four are up gradient of the project site. As a result, there is a potential for hazardous materials to travel via groundwater to the site. The site cross-gradient to the project (870 S. Winchester Boulevard) was previously a public laundry facility from 1986 to 1995. This site was redeveloped with townhouses in 2004. Construction of the existing residences on that site would have required remediation of any identified hazardous environmental conditions. Dues to redevelopment and remediation of the site, the location of the site relative to the project site and the direction of groundwater flow, the depth to groundwater (50 feet bgs), and the fact that there were no reported violations, operation of the former laundry would have no impact on the project site.

The sites up gradient of the project site include a commercial business (3120 Williams Road) that sells electronic/mobile devices, a recycling facility (3140 Williams Road), a former drycleaners (947 S. Winchester Boulevard), and an operational drycleaners (3128 Williams Road). The active drycleaners at 3128 Williams Road uses PCE and DF2000 (cleaning solvent) as part of the business. Although there are no open violations, hazardous materials and residual chemicals from the sites located up gradient could travel via groundwater and leach into the soils on the project site.

Groundwater on the project site is found at a depth of 50 feet bgs. Excavation for the underground parking and utilities will not exceed 20 feet. It is highly unlikely that contaminates in the groundwater could leach 30 feet upwards through the soil. As a result, any potential groundwater contamination from off-site businesses would have no impact on the project site. (**Less Than Significant Impact)**

4.11.3.4 Other Hazardous Impacts

The project site is located more than three miles from the Norman Y. Mineta San José International Airport and is not within the Airport Influence Area (AIA) which is a composite of the areas surrounding the airport that are affected by noise, height, and safety considerations.[71] The project is not located within any of the safety zones defined in the ALUC's Comprehensive Land Use Plan (CLUP) for the San José International Airport. **(Less Than Significant Impact)**

The project site is not located within two miles of a private airstrip and would not result in a substantial safety hazard for people working on the project site. **(No Impact)**

The City's Emergency Operations Plan include procedures for emergency operations in the event of floods, heat waves, off-airport aviation accidents, power outages, terrorism, and urban/wildland fires. The proposed project would not impair or interfere with the implementation of an adopted emergency response plan or emergency evacuation plan, because there are none involving the site. **(No Impact)**

[71] Walter B. Windus, PE. Aviation Consultant. *Comprehensive Land Use Plan: Norman Y. Mineta San José International Airport.* May 2011. <http://www.sccgov.org/sites/planning/Plans%20-%20Programs/Airport%20Land-Use%20Commission/Documents/SJC-5-25-11-Adopted-CLUP.pdf> Accessed August 18, 2014.

While the project site is within a quarter mile of Monroe Middle School (1055 S. Monroe Street), the proposed residential development would not emit or handle any regulated hazardous materials. During construction, transportation of contaminated soil would not utilize local roads in proximity to the school. Therefore, the proposed project would have no hazardous materials impacts on existing or planned schools in the project area. **(No Impact)**

The proposed project is located in a highly urbanized area that is not subject to wildland fires. Implementation of the proposed project would not expose people or structures to any risk from wildland fires. **(No Impact)**

4.11.4 Mitigation and Avoidance Measures for Hazardous Materials Impacts

Consistent with General Plan Policy EC-7.2, the following mitigation measures, including soil sampling and, if needed, preparation of a Site Management Plan, would be implemented during construction to avoid exposure to contaminated soils:

MM HAZ-1.1: Prior to any construction activities, soil samples shall be collected in the vicinity of the oil spillage.

MM HAZ-1.2: After demolition of the buildings and hardscape, but prior to the issuance of grading permits, soil samples shall be taken to determine the levels of contamination in the soil from previous agricultural operations.

- Soil samples shall be collected from the approximate surface of the native soil, to 0.5 foot depth, and shall be analyzed for organochlorine pesticides and pesticide related metals (e.g. arsenic, lead, and mercury).

MM HAZ-1.3: The soil sampling results will be compared to appropriate risk-based screening levels and submitted to the Santa Clara County Department of Environmental Health (SCCDEH) and the City's Director of Planning, Building and Code Enforcement for review prior to issuance of grading permits.

MM HAZ-1.4: If contaminated soils are found in concentrations above established thresholds for construction worker and residential environment safety, a Site Management Plan (SMP) will be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

A SMP will be prepared to establish management practices for handling soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP will include: a detailed discussion of the site background; preparation of a Health and Safety Plan by an industrial hygienist; notification procedures if previously undiscovered significantly

impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the RWQCB, San Francisco Bay Region's reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; and soil stockpiling protocols.

MM HAZ-1.5: Prior to issuance of grading permits, a copy of the SMP must be approved by the SCCDEH and the City's Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department's Environmental Compliance Officer.

With implementation of the identified mitigation measures, the project would have a less than significant impact from exposure to contaminated soil. **(Less Than Significant Impact with Mitigation)**

4.11.5 Conclusion

The proposed project could expose construction workers, future on-site maintenance workers, or current and future residents to contaminated soils from hazardous materials sources in the project area and historic agricultural operations on-site. With implementation of the identified mitigation measures (including soil testing and implementation of a soil management plan) and Standard Permit Conditions, the project would have a less than significant hazardous materials impact. **(Less Than Significant Impact With Mitigation)**

4.12 CULTURAL RESOURCES

4.12.1 Existing Setting

4.12.1.1 Prehistoric Subsurface Resources

Native Americans occupied Santa Clara Valley and the greater Bay Area for more than 5,000 years. The exact time period of the Ohlone (originally referred to as Costanoan) migration into the Bay Area is debated by scholars. Dates of the migration range between 3000 B.C. and 500 A.D. Regardless of the actual time frame of their initial occupation of the Bay Area and, in particular, Santa Clara Valley, it is known that the Ohlone had a well-established population of approximately 7,000 to 11,000 people with a territory that ranged from the San Francisco Peninsula and the East Bay south through the Santa Clara Valley and down to Monterey and San Juan Bautista.

The Ohlone lived in small villages referred to as tribelets. Each tribelet occupied a permanent primary habitation site and also had smaller resource procurement camps. The Ohlone, who were hunter/gatherers, traveled between their various village sites to take advantage of seasonal food resources (both plants and animals). During winter months, tribelets would merge to share food stores and engage in ceremonial activities.

Artifacts pertaining to the Ohlone occupation of San José have been found primarily along the City's major waterways. The project site is not in proximity to any local waterways; the nearest riparian corridor, Los Gatos Creek, is 1.28 miles southeast of the site. Therefore, the potential to discover any artifact or cultural resource on-site is low.

4.12.1.2 Historic Subsurface Resources

Mission Period

Spanish explorers began coming to Santa Clara Valley in 1769. From 1769 to 1776 several expeditions were made to the area during which time the explorers encountered the Native American tribes who had occupied the area since prehistoric times. Expeditions in the Bay Area and throughout California lead to the establishment of the California Missions and, in 1777, the Pueblo de San José de Guadalupe.

The pueblo was originally located well northeast of the project site, near the old San José City Hall. This location was prone to flooding and the pueblo was relocated in the late 1780's or early 1790's south to what is now downtown San José. The current intersection of Santa Clara Street and Market Street in downtown San José was the center of the second pueblo.

The project site is more than 3.5 miles from the second pueblo.

Post-Mission Period to Mid-20th Century

In the mid-1800's, San José began to be redeveloped as America took over the territory from Mexico and new settlers began to arrive in California as a result of the gold rush and the expansion of

business opportunities in the west. Much of San José, outside of the downtown area, was undeveloped or used as farm land until after World War II.

From at least 1899 until 1939, the project site was undeveloped. The project area was sparsely populated with structures and a few roads. The project site was farmland, specifically an orchard, from at least the late 1939 until 1968. Due to the lack of development on-site prior to 1970, the probability for discovering historic artifacts on-site is low.

4.12.1.3 Existing Structures

Based on available records, construction of the existing apartment units on-site began in 1971. The buildings on-site are less than 50 years old and are not listed on the City's Historic Resources Inventory.

4.12.1.4 Applicable Cultural Resources Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José. The following policies are specific to cultural resources and are applicable to the proposed project.

Policy ER-10.1: For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

Policy ER-10.2: Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced

Policy ER-10.3: Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

4.12.2 Cultural Resources Impacts

4.12.2.1 Thresholds of Significance

For the purpose of this EIR, a cultural resources impact is considered significant if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5;

- Directly or indirectly destroy a unique paleontological resource or site or unique geological feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

4.12.2.2 Impacts to Cultural Resources

Subsurface Prehistoric and Historic Resources

The site has a low potential for containing prehistoric archaeological resources due to the distance to the nearest waterway (Los Gatos Creek), approximately 1.28 miles southeast. Cultivation of the land and development of the project site over the last 75 years has failed to generate reports of any archaeological finds; however, grading and excavation up to 20 feet in depth for the parking structure could uncover and/or damage as yet unrecorded subsurface resources.

The project is not located near a waterway or near any known native occupation area. Therefore, the potential to disturb any prehistoric human remains is low. Nevertheless, the City has included measures in Standard Permit Conditions to reduce impacts to subsurface prehistoric and historic archaeological resources, including human remains.

The following Standard Permit Conditions are included in the project to reduce impacts to subsurface prehistoric and historic resources during grading and excavation of the proposed project

Standard Permit Conditions

- A qualified archaeologist will be on-site to monitor the initial excavation of the project site once all pavement is removed. After monitoring the initial excavation, the archaeologist will make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring will be required.

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped, the Director of Planning, Building and Code Enforcement will be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Environmental Senior Planner.

- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

With implementation of the identified Standard Permit Conditions, impacts to unknown subsurface prehistoric, historic, and archaeological resources would be less than significant. **(Less Than Significant Impact)**

Paleontological Resources

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Based on the underlying geologic formation of the project site, the General Plan Final EIR (FEIR) found the project site to have a high sensitivity (at depth) for paleontological resources. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, however, mammoth remains were found along the nearby Guadalupe River in San José in 2005.

The General Plan FEIR concluded that with implementation of existing regulations and adopted General Plan policies, new development within San José would have a less than significant impact on paleontological resources.

The project site is located in a Holocene sediment area. Excavation for the proposed underground parking structure would not exceed 20 feet below grade. Due to the project site's location on a younger geologic unit, distance from documented paleontological resources (i.e., the mammoth remains along the Guadalupe River), and existing urban development, the potential to encounter paleontological resources is low. Implementation of the proposed project would result in a less than significant impact on paleontological resources. **(Less Than Significant Impact)**

Historic Structures

There are no historic structures on or immediately adjacent to the project site. Therefore, implementation of the proposed project would have no impact on any designated historic structures. **(No Impact)**

4.12.3 Mitigation and Avoidance Measures for Cultural Resources Impacts

No project specific mitigation is required or proposed.

4.12.4 Conclusion

The project may encounter and/or unrecorded significant subsurface cultural resources. With implementation of the identified Standard Permit Conditions described above, the proposed project

would have a less than significant impact on subsurface prehistoric and historic archaeological resources. **(Less Than Significant Impact)**

Implementation of the proposed project would have a less than significant impact on paleontological resources. **(Less Than Significant Impact)**

Implementation of the proposed project would result in no impact on historic structures. **(No Impact)**

4.13 UTILITIES AND SERVICE SYSTEMS

The following analysis is based, in part, on a Water Supply Assessment prepared by San Jose Water Company in January 2015. A copy of this report is provided in Appendix G.

4.13.1 Setting

4.13.1.1 Water Services

Water service to the site is supplied by San Jose Water Company (SJWC). The project site is currently developed with 216 apartment units and a 1,700 square foot leasing office and uses approximately 33,100 gallons of per day (gpd) of water.

Water Shortage and Drought Planning

The San José Municipal Water System (SJMWS) and SJWC supply water to the City of San José. There are multiple water supply sources including local reservoirs and existing groundwater wells from the Santa Clara Valley Water District (SCVWD) and water allocation from the San Francisco Public Utilities Commission (SFPUC), which would meet the water demands through 2030. The SJMWS and SCVWD plan to expand the existing recycled water system to substitute for potable water use in landscaping throughout San José.

In anticipation of water shortages during single-dry and multiple-dry year conditions, the City has anticipated a decrease in the SFPUC's supply and an increase in groundwater supply from the SCVWD. The SCVWD has the capacity to meet water demand through 2020 under drought conditions. If any water shortage goes beyond five years, SCVWD would implement contingency actions to reduce water demands by 20 to 25 percent in the fifth year of a continuous drought. Chapter 15.10 of the Municipal Code allows the City Council to declare a water shortage when the water supply cannot meet at least 90 percent of the projected water demand or when a minimum of 10 percent water reduction is established by the SFPUC or SCVWD.

4.13.1.2 Wastewater

Sanitary sewer lines in the area are owned and maintained by the City of San José. The General Plan FEIR states that average wastewater flow rates are approximately 70 to 80 percent of domestic water use and 85 to 95 percent of business use (assuming no internal recycling or reuse programs). For the purposes of this analysis, wastewater flow rates are assumed to be 80 percent of the total on-site water use. The project site currently generates 26,480 gpd of wastewater.

Based on the General Plan FEIR, the City's average dry weather flow is approximately 69.8 million gallons per day (mgd). The City's capacity allocation at the San José Santa Clara Regional Wastewater Facility (Facility) is approximately 108.6 mgd, leaving the City with approximately 38.8 mgd of excess treatment capacity.

4.13.1.3 Storm Drainage

The City of San José owns and maintains the municipal storm drainage system which serves the project site. These lines drain into Los Gatos Creek which flows into the Guadalupe River where the runoff is transported into San Francisco Bay. There is no overland release of stormwater directly into any water body from the project site.

Currently, 79 percent of the project site is covered with impervious surfaces, including buildings, hardscape, and surface parking lots throughout the site. The pervious surface area is comprised of landscaping near the buildings, within the parking lots, and along the eastern and southern boundaries of the project site. There are existing storm drain lines that run under S. Winchester Boulevard that would serve the proposed development.

4.13.1.4 Solid Waste

Santa Clara County's Integrated Waste Management Plan (IWMP) was approved by the California Integrated Waste Management Board in 1996 and recently updated in June 2011. Each jurisdiction in the County has a landfill diversion requirement of 50 percent per year. In 2008, the City of San José diverted approximately 60 percent of the waste generated in the City. According to the IWMP, the County has adequate disposal capacity beyond 2022. In October 2007, the San José City Council adopted a Zero Waste Resolution which set a goal of 75 percent waste diversion by 2013 and zero waste by 2022. The City landfills approximately 700,000 tons per year of solid waste including 578,000 tons per year at landfill facilities in San José. The total permitted landfill capacity of the five operating landfills in the City is approximately 5.3 million tons per year.

The project site currently generates 1,157 pounds of solid waste per day.[72]

4.13.1.5 Applicable Utilities and Service Systems Regulations and Policies

The *Envision San José 2040 General Plan* includes policies applicable to all development projects in San José.

Policy MS-3.2: Promote use of green building technology or techniques that can help to reduce the depletion of the City's potable water supply as building codes permit.

Policy MS-3.3: Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

[72] Cal Recycle. Estimated Solid Waste Generation and Disposal Rates. <http://www.calrecycle.ca.gov/wastechar/wastegenrates/> Accessed September 5, 2014.
Multi-family units generate 5.31 pounds per dwelling unit per day. January 1996.
While the leasing office on-site would generate less than a typical office building, the analysis conservatively estimates for a general office's solid waste generation rate which is six pounds per 1,000 square feet per day. April 1992.

Action EC-5.16: Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

Policy IN-3.10: Incorporate appropriate stormwater treatment measures in development projects to achieve stormwater quality and quantity standards and objectives in compliance with the City's National Pollutant Discharge Elimination System (NPDES).

4.13.2 Utilities Impacts

4.13.2.1 Thresholds of Significance

For the purposes of this EIR, a utility and service impact is considered significant if the project would:

- Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board;
- Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects;
- Result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments;
- Be served by a landfill with insufficient permitted capacity; or
- Would not comply with Federal, State, and local statutes and regulations related to solid waste.

4.13.2.1 Water Supply

Based on the Water Supply Assessment (WSA) prepared by the San Jose Water Company, water use for the future development on the project site under the proposed rezoning would be 132,000 gpd, a net increase of 98,900 gpd.

San Jose Water Company has determined that the level of development proposed on the project site and the projected increase in water demand is consistent with the growth projections and future water demand assumed in the preparation and analysis of the City's 2010 Urban Water Management Plan (UWMP). The City's 2010 UWMP concluded that sufficient water supplies are available to meet the project demand. As such, there is sufficient water supply to serve the project site under normal weater year (non-drought) conditions.

In addition to normal water years, the WSA and UWMP assessed the ability of San Jose Water Company to meet forecasted water demands (including the proposed project) during multiple dry weather (drought) years. San Jose Water Company concluded that with projected supply totals and implementation of conservation measures consistent with its Water Shortage Contingency Plan, the retailer would be able to meet projected demand during multiple dry water years.

Implementation of the proposed project will not have a significant impact on existing and future water supplies. **(Less Than Significant Impact)**

4.13.2.2 Sanitary Sewer Capacity

The project site currently generates approximately 26,480 gpd of wastewater. The proposed project would generate approximately 105,600 gpd of wastewater, an increase of 79,120 gpd.

As stated above, the City currently has approximately 38.8 mgd of excess treatment capacity at the Facility. Based on a sanitary sewer hydraulic analysis prepared for the General Plan FEIR, full build out under the General Plan would increase average dry weather flows by approximately 30.8 mgd. As a result, development allowed under the General Plan would not exceed the City's allocated capacity at the Facility. The project proposes 650 residential units and 8,000 square feet of supporting retail space which is consistent with the General Plan. Therefore, implementation of the proposed project would have a less than significant impact on the sanitary sewer capacity. **(Less Than Significant Impact)**

4.13.2.3 Storm Drainage System

Under existing conditions, approximately 263,640 square feet (79 percent) of the project site is covered with impervious surfaces. Under project conditions, the project site would be covered with approximately 298,981 square feet (89 percent) of impervious surfaces. Implementation of the project would result in an eleven percent increase in impervious surfaces at the project site which will result in a net increase in stormwater runoff.

As discussed in Section 4.9, the General Plan FEIR concluded that although new development may increase impervious surfaces, with planned improvements to the City storm drainage system and the implementation of stormwater BMPs, new development would not significantly impact the storm drainage system. Because the project will be required to conform to all applicable City policies, the project would not exceed the capacity of the local drainage system. **(Less Than Significant Impact)**

4.13.2.4 Solid Waste

The proposed project would generate approximately 3,556 pounds per day of solid waste, an increase of 2,399 pounds per day compared to existing conditions.[73]

The General Plan FEIR concluded that the increase in waste generated by full build out under the General Plan would not cause the City to exceed the capacity of existing landfills that serve the City. Future increases in solid waste generation from development allowed under the General Plan would be avoided with ongoing implementation of the City's Zero Waste Strategic Plan. This plan, in combination with existing regulations and programs, would ensure that full build out of the General Plan would not result in significant impacts from the provision of landfill capacity to accommodate the City's increased service population.

[73] Cal Recycle. Estimated Solid Waste Generation and Disposal Rates.
<http://www.calrecycle.ca.gov/wastechar/wastegenrates/> Accessed September 5, 2014.
Multi-family units generate 5.31 pounds per dwelling unit per day. January 1996.
General commercial uses generate 13 pounds per 1000 square feet per day. April 1993.

The proposed project is consistent with the development assumptions in the General Plan and would not cause the city to exceed the capacity of existing landfills because of on-site recycling for future residents and retail tenants. Therefore, implementation of the proposed project would have a less than significant impact on the solid waste disposal capacity. **(Less Than Significant Impact)**

4.13.3 Mitigation and Avoidance Measures for Utilities Impacts

No project specific mitigation measures are required or proposed.

4.13.4 Conclusion

Implementation of the proposed project would not require new utilities lines or facilities and would not exceed the capacity of existing utility and service systems. **(Less Than Significant Impact)**

Unlike utility services, public facility services are provided to the community as a whole, usually from a central location or from a defined set of nodes. The resource base for delivery of the services, including the physical service delivery mechanisms, is financed on a community-wide basis, usually from a unified or integrated financial system. The service delivery agency can be a city, county, service or other special district. Typically, new development will create an incremental increase in the demand for these services; the amount of demand will vary widely, depending on both the nature of the development (residential vs. commercial, for instance) and the type of services, as well as on the specific characteristics of the development (such as senior housing vs. multi- or single-family housing).

The impact of a particular project on public facilities services is generally a fiscal impact. By increasing the demand for a type of service, a project could cause an eventual increase in the cost of providing the service (e.g., more personnel hours to patrol an area, additional fire equipment needed to service a tall building, etc.). That is a fiscal impact, however, not an environmental one.

CEQA does not require an analysis of fiscal impacts. CEQA analysis is required if the increased demand triggers the need for a new facility (such as a school or fire station), since the new facility would have a physical impact on the environment.

For the purposes of the EIR, a public facilities and services impact is considered significant if the project would result in substantial adverse physical impacts associated with the provision or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection, police protection, schools, parks, or other public facilities.

5.1 Regulatory Framework

California Government Code Section 65995-65998 (School Facilities)

The California Government Code Section 65996 specifies that an acceptable method of offsetting a project's effect on the adequacy of school facilities is the payment of a school impact fee prior to issuance of a building permit. Sections 65995-65998 sets forth provisions for the payment of school impact fees by new development by "mitigating impacts on school facilities that occur (as a result of) the planning, use, or development of real property" [§65996(a)]. The legislation goes on to say that the payment of school impact fees "are hereby deemed to provide full and complete school facilities mitigation" under CEQA [§65996(b)]. The school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code. In accordance with California Government Code Section 65996, developers pay a school impact fee to the school district to offset the increased demands on school facilities caused by their proposed residential development project.

Parkland Dedication Ordinance and Park Impact Ordinance

The City of San José has adopted the Parkland Dedication Ordinance (PDO, Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO, Municipal Code Chapter 14.25) requiring new residential development to either dedicate sufficient land to serve new residents, or pay fees to offset the increased costs of providing new park facilities for new development. These ordinances are intended to reduce the extent to which new development would exacerbate the existing shortfall of park and recreational facilities. Under the PDO and PIO, a project can satisfy half of its total parkland obligation by providing private recreational facilities on-site. For projects under 51 units, the City can only accept a fee in-lieu of land dedication. Affordable housing including low, very-low, and extremely-low income units are subject to from the PDO and PIO at a rate of fifty percent of the applicable parkland fee.

5.2 Applicable Public Services Regulations and Policies

The *Envision San José 2040 General Plan* includes the following policies applicable to all development projects in San José:

Policy ES-3.9: Implement urban design techniques that promote public and property safety in new development through safe, durable construction and publically-visible and accessible spaces.

Policy ES-3.11: Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

Policy VN-1.1: Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks, and retail services.

Policy VN-1.2: Maintain existing and develop new community services and gathering spaces that allow for increased social interaction of neighbors, (i.e., parks, community centers and gardens, libraries, schools, commercial areas, churches, and other gathering spaces).

Policy CD-5.3: Promote crime prevention through site and building designs that facilitate surveillance of communities by putting "eyes on the street." Design sites and buildings to promote visual and physical access to parks and open space areas. Support safe, accessible, and well-used public open spaces by orienting active use areas and building facades towards them.

Policy CD-5.5: Include design elements during the development review process that address security, aesthetics, and safety. Safety issues include, but are not limited to, minimum clearances around buildings, fire protection measures such as peak load water requirements, construction techniques, and minimum standards for vehicular and pedestrian facilities and other standards set forth in local, state, and federal regulations.

5.3 Fire Protection Services

Fire protection services for the project site are provided by the San José Fire Department (SJFD). The SJFD responds to all fires, hazardous materials spills, and medical emergencies (including injury accidents) in the City. The nearest station to the project site is Station No. 10 located at 511 South Monroe Street, approximately 2,900 feet northeast of the project site.

For fire protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

The General Plan FEIR concluded that planned growth under the General Plan would increase calls for fire protection services in the City. The higher density development envisioned in the General Plan may require additional staffing and equipment to adequately serve the larger population but no new stations would be required other than those already planned.

The proposed project would increase the population by approximately 1,358 residents. The proposed development is accounted for in the planned growth for the City and, therefore, would not preclude the SJFD from meeting its service goals. As a result, the proposed project would be adequately served by existing resources.

Furthermore, the project would be constructed in accordance with current building codes and would be required to be maintained in accordance with the municipal code and applicable City policies identified in the General Plan FEIR to avoid unsafe building conditions and promote public safety. As a result, the proposed residential and commercial development would not require new fire stations to be constructed or existing fire stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

5.4 Police Protection Services

Police protection services for the project site are provided by the San José Police Department (SJPD), which is headquartered at 201 West Mission Street, approximately 3.5 miles northeast of the project site. SJPD is divided into four geographic divisions: Airport, Western, Foothill, and Southern. The project site is served by the SJPD Western Division, which includes four patrol officers and two crime prevention specialists. For the last several years, the most frequent calls for service in the City have dealt with larceny, burglary, vehicle theft, and assault.

For police protection services, the General Plan identifies a service goal of six minutes or less for 60 percent of all Priority 1 (emergency) calls and 11 minutes or less for 60 percent of all Priority 2 (non-emergency) calls.

The General Plan FEIR concluded that planned growth under the General Plan would increase the population of the City which would require an increase in police services. While the overall service area would not increase, additional police officers and equipment would be needed to serve the larger population. The increase in police personnel may require the expansion of existing police facilities.

The project site is located within a planned urban village and the proposed development is accounted for in the planned growth for the City. Therefore, the project would not preclude the SJPD from meeting its service goals and all future development proposed on-site would be adequately served by existing resources.

Furthermore, the project would be constructed in accordance with current building codes and would be required to be maintained in accordance with applicable City policies to promote public and property safety. As a result, the proposed residential and commercial development will not require new police stations to be constructed or existing police stations to be expanded to serve the development while maintaining City service goals. **(Less Than Significant Impact)**

5.5 Schools

The project site is located within the Campbell Union School District (CUSD) and the Campbell Union High School District (CUHSD). Students generated by the project would attend Lynhaven Elementary School (K-6th grade), Monroe Middle School (7th and 8th grade), and Del Mar High School. The project area is served by schools listed in Table 5.0-1.[74]

TABLE 5.0-1
Local Schools

School	Location	Distance from Site
Lynhaven Elementary School	881 S. Cypress Avenue	0.4 miles W
Monroe Middle School	1055 S. Monroe Street	0.2 miles E
Del Mar High School	1224 Del Mar Avenue	1.1 miles SE

The following table shows the student capacity and current enrollment of the schools that would serve the proposed project.

TABLE 5.0-2
Local School Facilities

Local School	Capacity	Current Enrollment (2013-2014)
Lynhaven Elementary School	610	591
Monroe Middle School	755	883
Del Mar High School	1,461	1,141

The project proposes development of 650 residential units, a net increase of 434 units on-site. Based on the Campbell Union School District (CUSD) student generation rates, residential development

[74] San Jose Unified School District. School Finder. http://www.schvision.com/schoolfinder3/campbellunionsd/ Accessed September 30, 2014.

generates approximately 0.4 elementary students per unit and 0.1 junior high students per unit.[75] Based on these student generation rates, the proposed residential units would generate a net increase of 174 new elementary school students and 43 middle school students. The proposed project would generate 35 high school students in the CUHSD, based on the 0.08 students per unit rate for multi-family residential development.[76]

Based on the student generation rates, the project would increase enrollment that would exceed the capacity of the elementary and middle school in the CUSD. Del Mar High School has sufficient capacity for the project's students.

According to California Government Code Section 66000, a qualified agency, such as a local school district, may impose fees on developers to compensate for the impact that a project will have on existing facilities and services. The California Legislature passed Senate Bill 50 (SB 50) in 1998 to insert new language into the Government Code (Sections 65995.5-65885.7), which authorized school districts to impose fees on developers of new residential construction in excess of mitigation fees authorized by Government Code Section 66000. SB 50 also restricts the ability of local agencies to deny project approvals on the basis that public school facilities are inadequate. School districts must meet a list of specific criteria, including the completion and annual update of a School Facility Needs Analysis, in order to impose additional fees.

Under SB 50, school districts may collect fees to offset the costs associated with increasing school capacity as a result of development. Under the terms of this statute, payment of statutory fees by property owners or property developers is deemed to mitigate in full for the purposes of CEQA any impacts to school facilities associated with a qualifying project. The fees are assessed based upon the proposed square footage of the new or expanded development.

The collection of fees would be sufficient to off-set the impacts of increased student enrollment at the local schools within the CUSD. **(Less Than Significant Impact)**

5.6 Parks and Community Centers

The Department of Parks, Recreation, and Neighborhood Services provides 184 neighborhood parks, 13 community centers, nine regional parks, and over 54 miles of trails for residents of San José. City parks include a variety of recreational open spaces including playing fields, gardens, and trails. The nearest parks to the project site are Santana Park and Hamann Park.

Santana Park (5.3 acres) is approximately 0.5 miles northeast of the project site and includes picnic and barbeque areas, a softball field, and a playground. Hamann Park (10.5 acres) is approximately 0.5 miles southeast of the project site and includes a softball field, tennis courts, and two playgrounds.

[75] Shelley Wedel. Student Information Department. Campbell Union School District. Personal Communication. September 4, 2014.
[76] Toni Selzler. Business Services Secretary. Campbell Union High School District. Personal Communications. September 4, 2014.

Future residents of the site would use existing recreational facilities in the area, as well as the communal open spaces on-site. The new residents on the site would incrementally increase the use of existing recreational facilities in the project area.

The City of San José has a Parkland Dedication Ordinance (PDO) which requires new housing projects to provide 3.0 acres of neighborhood/community serving parkland per 1,000 population, provide recreational facilities on-site, and/or pay an in-lieu fee. Residential growth resulting from build out of the General Plan is expected to result in an overall City population of 1,313,811 by 2035, which will increase the demand for park and recreational facilities and create an overall (city-wide) parkland deficit of 2,187.4 acres.[77]

The proposed residential development is located on a 7.68-acre site and does not have the capacity to dedicate 3.0 acres of parkland per 1,000 new population. The project would, however, include active and passive recreation areas on-site which could reduce the use of off-site public parks.

The General Plan FEIR concluded that construction and/or expansion of parks in compliance with General Plan policies and regulations will reduce any physical impacts from development or expansion of parkland facilities to a less than significant level. The proposed project will be required to comply with the PDO requirements. Therefore, proposed project would not result in significant impacts to park facilities in San José. **(Less Than Significant Impact)**

5.7 Libraries

The City of San José is served by the San José Public Library System. The San José Public Library System consists of one main library (Dr. Martin Luther King Jr.) and 22 branch libraries. The nearest library is West Valley Branch Library, approximately 1.6 miles southwest of the project site.

There are 23 libraries located throughout San José. Development approved under the Envision 2040 General Plan is projected to increase the City's residential population to 1,313,811. The existing and planned library facilities in the City will provide approximately 0.68 square feet of library space per capita for the anticipated population under build-out of the General Plan by the year 2035, which is above the City's service goal. The proposed project would result in a minimal increase in the resident population and would not result in significant degradation to existing San José library facilities or cause the City to miss its service goal target. **(Less Than Significant Impact)**

5.8 Conclusion

Implementation of the proposed project will not result in significant adverse impacts on public services in the City of San José or require the construction of new facilities to serve the resident population of the City. **(Less Than Significant Impact)**

[77] City of San José. *Envision 2040 General Plan FPEIR.* June 2011. See Table 3.9-5.

SECTION 6.0 CUMULATIVE IMPACTS

Cumulative impacts, as defined by CEQA, refer to two or more individual effects, which when combined, are considerable or which compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant projects taking place over a period of time. The CEQA Guidelines state (§15130) that an EIR shall discuss cumulative impacts "when the project's incremental effect is cumulatively considerable." The discussion does not need to be in as great detail as is necessary for project impacts, but is to be "guided by the standards of practicality and reasonableness." The purpose of the cumulative analysis is to allow decision makers to better understand the potential impacts which might result from approval of past, present and reasonably foreseeable future projects, in conjunction with the proposed project.

6.1 Thresholds of Significance

The discussions below address the following aspects of cumulative impacts:

- Would the effects of the proposed project, when combined with the effects of all past, present, and pending development result in a cumulatively significant impact on the resources in question?
- If a cumulative impact is likely to be significant, would the contribution of the proposed project to that impact be cumulatively considerable?

6.2 Pending and Potential Development Within the Project Area

The project site is located within an identified Urban Village, which is an area designated by the City for intensification of growth. As of release of the Notice of Preparation (October 15, 2014), there were no other proposed projects or parcels within the Winchester Urban Village with a known potential to redevelop in the near term.

Within the adjacent Santana Row/Valley Fair Urban Village, there is one proposed development at Santana Row (a rezoning allowing for an increase in retail and office development capacity) and two parcels with the potential to redevelop in the near term, the Century Theater site located immediately west of Santana Row and the Winchester Ranch Mobile Home Park located south and west of the Century Theater site, immediately north of Highway 280. At the time the NOP for this EIR was prepared, there were no development proposals on file with the City for either site, so the land uses and densities that would ultimately be developed on these sites were not known.

Under the current General Plan, the Winchester Ranch site is designated *Residential Neighborhood (8 dwelling units/acre)* with an FAR up to 0.7 and buildings from one to 2.5 stories. The Century Theater site is designated *Neighborhood/Community Commercial* which allows neighborhood serving retail and services and commercial/professional office development. Development under this designation has an FAR of up to 2.0 and allows buildings one to four stories in height. Based on the existing General Plan land use designations and current efforts by the City to put a moratorium on the redevelopment of mobile home parks, this analysis assumes that Winchester Ranch will remain as is

and that the Century Theater site would eventually be redeveloped with retail and/or office development.[78]

In addition to the sites listed above, the Valley Fair Shopping Mall has existing entitlements for expansion that includes 638,480 square feet of new retail space and reconstruction of two parking structures. The traffic trips associated with the Valley Fair expansion are already accounted for in the City's approved trips inventory (ATI) and were included as part of the background conditions for the project level traffic impact analysis.

There are no pending development proposals in the Cities of Santa Clara or Campbell in proximity to the site.

6.3 Cumulative Impacts of the Proposed Project

Based on the analysis in this EIR and the attached Initial Study, the proposed project would have no impact on agricultural/forest lands and mineral resources, and a less than significant impact on aesthetics, cultural resources, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, land use, population and housing, public services, noise, recreation, or utilities. The degree to which the proposed project would add to existing or probable future impacts on existing land uses and/or resources would be negligible.

The proposed project would result in significant air quality, biological resources, hazardous materials, and transportation impacts.

6.3.1 Utilities and Public Services

The project's use of energy, water, the sanitary sewer system, and landfills, as well as police and fire protection services and local community services (schools, parks, libraries, etc.) was accounted for in General Plan as part of the planned growth of the City. When applicable, the General Plan identified the need for increased services and infrastructure to support the planned growth of the City. The project, by itself, will have a less than significant impact on these resources and services. The proposed project, combined with future redevelopment within the Winchester Urban Village and intensification of growth throughout the City of San Jose, would significantly increase the use/need for these resources and services, but would not result in a significant cumulative impact. As a result, the project's contribution to the increased use of any of these resource areas would not be considerable.

6.3.2 Biological Resources

The biological resources impacts will result solely from construction of the proposed project. These impacts are temporary and will be reduced to a less than significant level with implementation of the proposed mitigation measures. Because of the temporary nature of these impacts and the fact that the

[78] Since filing of the NOP for the proposed project, an application has been submitted to rezone the Century Theater site, but is in the preliminary phases of review.

impacts will be mitigated, there would be no long term cumulative effect. As a result, the project's contribution to a cumulatively significant biological resources impact would not be considerable.

6.3.3 Air Quality

The project would result in a temporary TAC emissions impact from construction of the proposed development due to the proximity of sensitive receptors. The impact will be temporary and will be reduced to a less than significant level with implementation of the proposed mitigation measures. Because of the temporary nature of this impact and the fact that the impact will be mitigated, there would be no long term cumulative effect. As a result, the projects contribution to a cumulatively significant TAC emissions impact would not be considerable.

The project would not result in project level operational health risk impacts due to TAC and/or $PM_{2.5}$ exposure from any of the identified emission sources. Cumulative impacts to the project area were determined based on the combined excess cancer risk, annual $PM_{2.5}$ concentrations and hazard index of all mobile and stationary emission sources within 1,000 feet of the project site. Cumulative thresholds used by the City of San Jose are as follows:

- Excess Cancer Risk – 100 in one million
- $PM_{2.5}$ Concentration – 0.8 $\mu g/m^3$
- Hazard Index – 10.0

Future site residents would be exposed to a cumulative excess cancer risk from mobile and stationary sources of 8.6 in one million, an annual $PM_{2.5}$ concentration of 0.27 $\mu g/m^3$, and a hazard index below 1.0. Based on the thresholds listed above, implementation of the proposed project will not expose future residents to cumulatively considerable TAC and $PM_{2.5}$ emission concentrations.

6.3.4 Hazards and Hazardous Materials

Hazardous materials contamination is typically a localized issue. The proposed project has identified specific mitigation measures to address residual soil contamination on-site, as well as the potential for off-site contamination to have impacted on-site soils and/or groundwater. The existing and proposed land uses on the project site do not pose a risk from the use or storage of hazardous materials. Future redevelopment within the Winchester Urban Village and intensification of growth throughout the City of San Jose could expose existing soil and/or groundwater contamination which will need to be remediated. The most likely impact to nearby sensitive receptors and construction workers would be exposure during removal and off-haul of contaminated soils. The remediation of multiple project sites within a limited geographical area at the same time is highly unlikely. Furthermore, truck routes would be established by the City's Department of Public Works to avoid residential and other sensitive areas. Therefore, redevelopment within the Winchester Urban Village would not result in a cumulatively significant hazardous materials impact.

6.3.5 Transportation

Traffic volumes under cumulative conditions were estimated by adding the trips from proposed but not yet approved (pending) development projects within the City of San Jose to background

condition traffic volumes. Cumulative plus project conditions are the cumulative no project condition plus project generated traffic.

As with existing plus project and background plus project, the proposed project would have a significant cumulative impact if it would:

- cause the level of service at any local intersection to degrade from an acceptable LOS D or better under background conditions to an unacceptable LOS E or F under cumulative conditions;
- cause the level of service at any CMP/County intersection or freeway segment to degrade from an acceptable LOS E or better under background conditions to an unacceptable LOS F under cumulative conditions; or
- at any local intersection that is already an unacceptable LOS E or F under background conditions, cause the critical-movement delay at the intersection to increase by four or more seconds and the demand-to-capacity ratio (V/C) to increase by .01 or more.

A single project's contribution to a cumulative intersection impact is deemed considerable in the City of San Jose if the proportion of project traffic represents 25 percent or more the increase in total traffic volume from background traffic conditions to cumulative traffic conditions.

6.3.5.1 Cumulative Intersection Level of Service Impacts

The roadway network, including intersection lane configurations, under cumulative conditions were assumed to be the same as background conditions.

Under the cumulative condition, seven of the signalized intersections (listed below) would operate at an unacceptable LOS in one or both Peak Hours. All other study intersections would operate at an acceptable LOS.

- Winchester Boulevard and Stevens Creek Boulevard (No.1) – AM and PM Peak Hour
- Monroe Street and Stevens Creek Boulevard (No. 4) – PM Peak Hour
- Winchester Boulevard and Olin Avenue (No. 11) – PM Peak Hour
- Winchester Boulevard and Olsen Drive (No. 12) – PM Peak Hour
- Winchester Boulevard and Williams Road (No. 18) – AM Peak Hour
- San Tomas Expressway and Moorpark Avenue (No. 21) – PM Peak Hour
- San Tomas Expressway and Stevens Creek Boulevard (No. 22) – AM and PM Peak Hour

The results of the cumulative plus project conditions analysis are summarized in Table 6.1-1 below.

TABLE 6.1-1
Signalized Study Intersections Level of Service – Cumulative Conditions

No.	Intersection	Peak Hour	Background		Cumulative			
			Delay	LOS	Delay	LOS	Δ in Critical Delay	Δ in Critical V/C
1	Winchester Boulevard and Stevens Creek Boulevard * (San José)	AM	36.1	D	**63.7**	**E**	**70.3**	**0.553**
		PM	**60.1**	**E**	**177.5**	**F**	**249.3**	**0.643**
2	Santana Row and Stevens Creek Boulevard (San José)	AM	15.0	B	15.4	B	2.3	0.178
		PM	31.1	C	31.2	C	1.6	0.166
3	Redwood Avenue and Stevens Creek Boulevard (San José)	AM	9.8	A	10.4	B	0.5	0.173
		PM	29.7	C	29.4	C	1.9	0.169
4	Monroe Street and Stevens Creek Boulevard (San José)	AM	34.1	C	43.5	D	14.6	**0.210**
		PM	**83.5**	**F**	**172.0**	**F**	**126.9**	**0.304**
5	I-880 SB Ramps and Stevens Creek Boulevard* (San José)	AM	22.4	C	25.0	C	5.3	0.248
		PM	15.9	B	25.7	C	24.5	0.215
6	I-880 NB Ramps and Stevens Creek Boulevard* *Future* (San José)	AM	19.2	B	22.1	C	3.1	0.188
		PM	20.6	C	22.7	C	3.1	0.101
7	Bascom Avenue and Parkmoor Avenue (San José)	AM	42.7	D	42.9	D	0.4	0.011
		PM	47.9	D	48.8	D	1.6	0.017
8	Bascom Avenue and Moorpark Avenue* (San José)	AM	34.3	C	34.5	C	0.2	0.015
		PM	50.3	D	52.4	D	4.1	0.026
9	Leigh Avenue and Parkmoor Avenue (San José)	AM	26.1	C	26.1	C	0.0	0.009
		PM	21.9	C	21.7	C	-0.3	0.014
10	Leigh Avenue and Moorpark Avenue (San José)	AM	29.4	C	29.2	C	-0.3	0.008
		PM	20.6	C	20.5	C	-0.2	0.008
11	Winchester Boulevard and Olin Avenue (San José)	AM	17.5	B	20.6	C	6.7	0.386
		PM	20.4	C	**56.5**	**E**	**45.6**	**0.515**
12	Winchester Boulevard and Olsen Drive (San José)	AM	21.6	C	28.8	C	13.3	0.402
		PM	27.5	C	**61.6**	**E**	**46.3**	**0.510**
13	Winchester Boulevard and I-280 WB On-Ramp/Tisch Way (San José)	AM	26.5	C	29.2	C	4.3	0.056
		PM	35.8	D	51.8	D	31.4	0.194
14	South Monroe Street and Moorpark Avenue (San José)	AM	17.8	B	18.5	B	0.8	0.021
		PM	9.5	A	10.3	B	1.2	0.021
15	Winchester Boulevard and Moorpark Avenue (San José)	AM	39.1	C	44.4	D	7.9	0.177
		PM	39.4	C	40.2	D	3.7	0.049
16	I-280 EB Off-Ramp and Moorpark Avenue* (San José)	AM	11.6	B	12.5	B	0.7	0.081
		PM	13.5	B	14.0	B	0.2	0.032
17	Cypress Avenue and Moorpark Avenue (San José)	AM	12.7	B	12.2	B	-1.0	0.028
		PM	8.3	A	8.6	A	0.8	0.015
18	Winchester Boulevard and Williams Road (San José)	AM	38.9	D	**58.2**	**E**	**29.7**	**0.128**
		PM	34.1	C	38.9	D	4.5	0.066

TABLE 6.1-1 Signalized Study Intersections Level of Service – Cumulative Conditions								
No.	**Intersection**	**Peak Hour**	**Background**		**Cumulative**			
			Delay	**LOS**	**Delay**	**LOS**	**Δ in Critical Delay**	**Δ in Critical V/C**
19	Winchester Boulevard and Payne Avenue (San José)	AM	39.6	D	39.4	D	0.2	0.038
		PM	36.8	D	36.1	D	-0.6	0.031
20	San Tomas Expressway and Williams Road (San José)	AM	44.5	D	48.8	D	7.9	0.038
		PM	37.4	D	38.6	D	0.8	0.015
21	San Tomas Expressway and Moorpark Avenue* (San José)	AM	52.9	D	53.3	D	0.7	0.005
		PM	55.0	D	**61.8**	**E**	**11.7**	**0.049**
22	San Tomas Expressway and Stevens Creek Boulevard* (San José)	AM	54.2	D	**59.9**	**E**	**8.0**	**0.046**
		PM	**74.8**	**E**	**79.0**	**E**	**5.9**	**0.012**
23	Saratoga Avenue and Moorpark Avenue* (San José)	AM	41.8	D	42.9	D	1.1	0.024
		PM	44.7	D	45.1	D	0.3	0.013
24	Winchester Boulevard and Hamilton Avenue* (Campbell)	AM	37.3	D	38.2	D	1.4	0.046
		PM	47.7	D	48.1	D	0.7	0.018
25	SR 17 SB Off-Ramp/Salmar Ave and Hamilton Avenue* (Campbell)	AM	37.1	D	37.3	D	0.5	0.009
		PM	68.5	E	69.6	E	2.5	0.010
26	Creekside Way and Hamilton Avenue* (Campbell)	AM	22.4	C	22.5	C	0.0	0.000
		PM	26.4	C	27.0	C	9.9	-0.003
27	Creekside Way and SR 17 NB Off-Ramp (Campbell)	AM	11.3	B	11.3	B	0.0	0.002
		PM	15.3	B	15.4	B	0.0	0.007

The project's contribution to the increase in total traffic volumes from background conditions to cumulative conditions represents 25 percent or more at two intersections:

- Winchester Boulevard and Williams Road
- San Tomas Expressway and Moorpark Avenue

These contributions are considered cumulatively considerable by the City of San Jose. The project's contribution in total volume from background traffic conditions to cumulative traffic conditions would be less than 25 percent at the remaining intersections identified to be impacted by the total cumulative project trips.

Impact C-TRAN-1: Implementation of the proposed project would result in a 0.128 increase in V/C and a 29.7 second increase in critical delay in the AM Peak Hour causing the LOS to degrade from D to E under cumulative conditions at the Winchester Boulevard/Williams Road intersection. The project traffic represents a 47 percent increase in total traffic volume at this intersection. **(Significant Impact)**

Impact C-TRAN-2: Implementation of the proposed project would result in a 0.049 increase in V/C and a 11.7 second increase in critical delay in the PM Peak Hour causing the LOS to degrade from D to E under cumulative conditions at the San Tomas Expressway/Moorpark Avenue intersection. The project traffic represents a 36 percent increase in total traffic volume at this intersection. **(Significant Impact)**

6.3.5.2 Mitigation Measures for Cumulative Transportation Impacts

MM C-TRANS 1-1: The applicant shall construct a second eastbound left-turn lane on Williams Road at Winchester Boulevard. Improvement plans, contracts, and bonds shall be approved by the Department of Public Works prior to issuance of building permits. The addition of a second eastbound left-turn lane at the Winchester Boulevard/Williams Road intersection would reduce the average delay to an acceptable LOS D in the AM Peak Hour.

MM C-TRANS 2-1: The addition of a fourth through lane to both the north and south approaches of the San Tomas Express/Moorpark Avenue intersection would reduce the average delay to better than background conditions in the PM Peak Hour. This improvement has been identified in the County Expressway Planning Study as a Tier 1 improvement and payment of fair share fees toward this improvement would mitigate the project's impact.

6.4 Conclusion

Under the cumulative plus project scenario, the proposed project would have a significant impact at the Winchester Boulevard/Williams Road intersection and the San Tomas Expressway/Moorpark Avenue intersection. Mitigation measures have been identified that could reduce the impacts to a less than significant level. **(Less Than Significant Impact With Mitigation)**

SECTION 7.0 PROJECT ALTERNATIVES

Section 15126.6 of the CEQA Guidelines requires that an EIR describe a reasonable range of alternatives to the proposed project that could feasibly attain most of the project objectives while avoiding or considerably reducing any of the significant impacts of the proposed project. In addition, the No Project Alternative must be analyzed in the document.

In order to comply with the purposes of CEQA, it is necessary to identify alternatives that reduce the significant impacts that are anticipated to occur if the project is implemented while trying to meet most of the basic objectives of the project. The Guidelines emphasize a common sense approach. The alternatives shall be reasonable, shall "foster informed decision making and public participation," and shall focus on alternatives that avoid or substantially lessen the significant impacts.

Pursuant to CEQA Guidelines Section 15124, the EIR must identify the objectives sought by the proposed project. The stated objectives of the project proponent are to:

1. Rezone and redevelop the 7.67-acre site to allow for the creation of a Neighborhood Urban Village with high density residential units and approximately 10,000 square feet of retail/commercial space.
2. Support San Jose General Plan policies, such as H-3.1 and H-3.2 (see Section 3.0, page 25), regarding intensification of units in Urban Villages by the replacement of 216 existing apartment units with up to 650 new multi-family units.
3. Provide on-site services to residents and support growth in employment and commercial activity by locating limited retail and other commercial uses within the residential project.
4. Provide an economically sustainable number of units to allow enhancement of the character of the neighborhood by providing common open space areas including plazas, courtyards, a recreation area, and seating areas.
5. Locate higher density housing with easy access to transportation corridors, rail transit stations, bus corridor stops, commercial services, and jobs.
6. Create a sustainable community by designing public spaces to encourage alternative forms of transportation such as walking, bicycling, and public transportation.
7. Assist the City of San Jose to satisfy its Regional Housing Needs Allocation for market rate housing units.

An EIR is required to include a "No Project" alternative that "compares the impacts of approving the proposed project with the impacts of not approving the proposed project."[79]

The significant impacts identified in this EIR as resulting from the proposed project include air quality (TAC) impacts from construction on nearby sensitive receptors, biological impacts from construction (tree removal and loss of active bird nests), hazardous materials impacts, and transportation impacts. The logical way to reduce these impacts would be to reduce the overall size

[79] CEQA Guidelines Section 15126.6(e)(1)

of the development. Therefore a reduced density alternative, which includes a reduction in parking and a reduction in building size, is discussed below.

There is no rule requiring an EIR to explore off-site project alternatives in every case. As stated in the Guidelines: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (Guidelines, § 15126.6, subd. (a), italics added.) As this implies, "an agency may evaluate on-site alternatives, off-site alternatives, or both." (*Mira Mar, supra*, 119 Cal.App.4th at p. 491.) Nor does any statutory provision in CEQA "expressly require a discussion of alternative project locations." (119 Cal.App.4th at p. 491 citing §§ 21001, subd. (g), 21002.1, subd. (a), 21061.)

In considering an alternative location in an EIR, the CEQA Guidelines advise that the key question is "whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location".[80] The proposed project is a high density mixed-use development within the Winchester Urban Village in San Jose. It is not likely that an alternative location within the Winchester Urban Village would substantially lessen the identified impacts. Development of this project outside the Winchester Urban Village would not be consistent with the City's development objectives pursuant to the General Plan and was not considered.

A. NO PROJECT ALTERNATIVE

The CEQA Guidelines [§15126(d)4] require that an EIR specifically discuss a "No Project" alternative, which shall address both "the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the project is not approved, based on current plans and consistent with available infrastructure and community services."

No Project – No Development Alternative

The No Project – No Development Alternative would retain the existing 216-unit apartment complex. If the project site were to remain as is there would be no new impacts. The project site is, however, currently designated *Urban Residential* in the 2040 General Plan. The existing apartment complex is inconsistent with the current land use designation because it is below the minimum density of 30 dwelling units per acre for the *Urban Residential* land use designation. No improvements would occur in and around the site.

No Project – R-M Zoning Redevelopment Alternative

The project site is currently designated *Urban Residential* in the 2040 General Plan. The existing apartment complex is inconsistent with the current land use designation because it does not meet the minimum density requirement of 30 dwelling units per acre. Because the current development is not consistent with the General Plan and is located within an Urban Village intended to accommodate

[80] CEQA Guidelines Section 15126.6(f)(2)(A)

future growth, it is reasonable to assume that if the proposed project were not approved, an alternative development would be proposed in the future with an increase in density over existing conditions.

Given the General Plan land use designation as well as the objectives of the *Envision San Jose 2040 General Plan*, any alternative project proposed on this site would be comparable in land use, density, and scale to what is currently proposed, assuming that any proposal would try to maximize development on-site. As a result, transportation impacts would be comparable to those of the proposed project. Construction impacts would also be comparable to the proposed project. Any alternative proposal that is consistent with the higher end of the development densities allowed under the General Plan designation would likely exceed the maximum height of 45 feet and would need to be rezoned.

As noted above, the current R-M zoning has a maximum building height of 45 feet which would conservatively equate to three-stories of residential development plus rooftop equipment. Assuming a design similar to the proposed project, the project site could be redeveloped at a lower level of the allowable density. Based on the floor plates for the proposed project, and assuming below-grade parking and the street frontage retail, the site could be redeveloped with approximately 426 dwelling units (54 du/ac) in two three-story buildings. Additional units could be added by reducing the western setback from the proposed 60 feet to the minimum 25 feet allowed under the *R-M* zoning.

The development of 426 dwelling units on-site would be sufficient to reduce the background plus project LOS transportation impacts at the Stevens Creek Boulevard/Winchester Boulevard and Stevens Creek Boulevard/Monroe Street intersections. The reduction in total project size would not be sufficient to avoid the construction TAC emissions impact because the majority of the below grade parking would still need to be constructed. The reduction in units would also result in fewer new students at local schools. Specifically, 426 units would generate a minimum net increase of approximately 84 new elementary school students, 21 new middle school students, and 17 new high school students. Even with the reduction in units, this alternative would still exceed the capacity of Lynhaven Elementary School and Monroe Middle School, based on current enrollment numbers.

Conclusion: Implementation of the no-build "No Project" alternative would avoid the significant impacts identified in this EIR. The no-build No Project alternative would not, however, allow for new high density mixed-use development to be constructed on the project site. This alternative does not meet any of the objectives of the proposed project.

The "No Project" R-M Zoning Redevelopment alternative would likely result in the same types of impacts as the proposed project, with or without a rezoning.

B. REDUCED DENSITY ALTERNATIVE

In an effort to avoid one or more of the significant transportation impacts and temporary TAC emissions impacts that would result from the proposed project but still provide new residential/retail on-site, this alternative evaluates a reduced density development of 500 apartments and 8,000 square feet of retail.

Under the reduced density alternative, the project would still propose a mixed-use mid-rise residential building with 8,000 square feet of ground floor retail and below grade parking. The basic building design and orientation would be the same as the proposed project. This alternative would, however, only propose 500 residential units, a reduction of 150 units compared to the proposed project. The building would continue to have the same setbacks as the proposed project, but under this alternative, the building would be reduced in height by two stories (down to four stories) along the project frontage. The height of the building along the western edge would remain the same at four stories.

Maintaining the same parking ratio of 1.38 spaces per unit, the project would provide a total of 710 parking spaces (65 on the drive aisles and 645 within the two-level below grade parking structure). While the size of the parking structure could be reduced, it would still have to be two levels. The number of parking spaces along the at-grade drive aisles would not change.

The reduction in residential units would be sufficient to reduce the background plus project LOS transportation impacts at the Stevens Creek Boulevard/Winchester Boulevard and Stevens Creek Boulevard/Monroe Street intersections. Under background conditions, the San Tomas Expressway/Moorpark Avenue intersection would operate at LOS D with a delay of 55.0 seconds. The thresholds for LOS E operations is 55.1 seconds. Therefore, any increase in the existing residential unit count on-site would trigger a level of service impact at this intersection.

The reduction in total project size would not be sufficient to avoid the construction TAC emissions impact because the majority of the below grade parking would still need to be constructed. It should be noted that mitigation measures are identified to reduce this impact to a less than significant level. While not an impact, this alternative would also reduce the shading on adjacent properties. There would be no measureable change in the level of impact for hazardous materials compared to the proposed project. Due to the proposed underground parking, this alternative would still remove the majority of the trees currently on the project site. Replacement ratios for removed or damaged trees would remain the same as the proposed project.

The reduction in units would result in fewer new students at local schools. Based on the Campbell Union School District (CUSD) student generation rates, 500 residential units would generate a net increase of 114 new elementary school students and 28 middle school students. Based on the Campbell Union High School District (CUHSD) student generation rates, 500 residential units would generate 23 high school students. Even with the reduction in units, the project would still exceed the capacity of Lynhaven Elementary School and Monroe Middle School, based on current enrollment numbers.

This alternative represents a 23 percent reduction in residential units compared to the proposed project, which would significantly reduce the density of the project from approximately 84 units per acre to 65 units per acre. While the reduced density alternative would be generally consistent with the identified objectives of the proposed project and the development policies of the General Plan, it would result in the underutilization of a prime redevelopment site within the Winchester Urban Village.

Conclusion: Implementation of the Reduced Density Alternative would avoid two of the three traffic impacts under background plus project conditions. It could, however, result in higher density development on other sites within the Winchester Urban Village in order to meet the City's development goals. This alternative meets some, but not all the project objectives and is environmentally superior to the proposed project.

TABLE 7-1
Comparison of Alternatives

Impact	Alt. A – No Development	Alt A. – Zoning Redevelopment	Alt. B
Impact TRAN-1: Impacts to three study intersections under background plus project conditions.	No Impact	LTS[81]: Monroe St/Stevens Creek Blvd LTS: Winchester Blvd/Stevens Creek Blvd Significant: Stevens Creek Blvd/San Tomas Expressway	LTS: Monroe St/Stevens Creek Blvd LTS: Winchester Blvd/Stevens Creek Blvd Significant: Stevens Creek Blvd/San Tomas Expressway
Impact AIR -2: Temporary construction air quality impact.	No Impact	Significant Impact	Significant Impact
Impact NOI-1: Potential noise impacts for residences facing Winchester Boulevard and Williams Road.	No Impact	Significant Impact	Significant Impact
Impact BIO-1: Construction impacts to nesting migratory birds and raptors.	No Impact	Significant Impact	Significant Impact
Impact HAZ-1: Exposure of construction workers, future on-site employees, and current and future residents to contaminated soils.	No Impact	Significant Impact	Significant Impact
Impact C-TRAN-1: Cumulative traffic impact to the intersection of Winchester Boulevard/Williams Road.	No Impact	Significant Impact	Significant Impact
Impact C-TRAN-2: Cumulative traffic impact to the San Tomas Expressway/Moorpark Avenue intersection.	No Impact	Significant Impact	Significant Impact

Both the No Project – R-M Zoning Redevelopment Alternative and the Reduced Density Alternative will have similar impacts as both would propose a similar number of residential units (426 and 500 units, respectively).

[81] LTS – Less Than Significant Impact

C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines state that an EIR shall identify an environmentally superior alternative. Based on the above discussion, the environmentally superior alternative is the No Project – R-M Zoning Redevelopment Alternative, because two of the project's significant impacts would be avoided and no new impacts would result. The No Project – R-M Zoning Redevelopment Alternative would achieve some of the objectives of the proposed project and is generally consistent with City development policies. It could, however, result in higher density residential development on other sites within the Winchester Urban Village in order to meet the City's development goals of 2,000 residential units within the Urban Village consistent with the General Plan.

SECTION 8.0 SIGNIFICANT UNAVOIDABLE IMPACTS

A significant unavoidable impact is an impact that cannot be mitigated to a less than significant level if the project is implemented as it is proposed. All identified significant impacts of the proposed project would be reduced to a less than significant level with the implementation of mitigation measures identified in this EIR and compliance with adopted regulations and General Plan policies.

Implementation of the proposed project would not result in any significant unavoidable impacts.

SECTION 9.0 IRREVERSIBLE ENVIRONMENTAL CHANGES AND IRRETRIEVABLE COMMITMENT OF RESOURCES

CEQA and the CEQA Guidelines require that an EIR address "significant irreversible environmental changes which would be involved in the proposed project, should it be implemented." [§15126(c)]

If the proposed project is implemented, development of this site would involve the use of non-renewable resources both during the construction phase and future operations/use of the site. Construction would include the use of building materials, including materials such as petroleum-based products and metals that cannot reasonably be re-created. Construction also involves significant consumption of energy, usually petroleum-based fuels that deplete supplies of non-renewable resources. Once the new development is complete, occupants will use some non-renewable fuels to heat and light the buildings. The proposed project will also result in the increased consumption of water due to the increase in housing density on-site.

The City of San Jose encourages the use of building materials that include recycled materials and requires new development to meet minimum green building design standards. The proposed project will be built to current codes, which require insulation and design to minimize wasteful energy consumption. The proposed mixed-use project would be constructed consistent with the City's Green Building measures and, as a result, would use less energy for heat and light and less water than a standard design residential/retail building. In addition, the site is an infill location currently served by public transportation and within walking distance of jobs and services. The proposed project will, therefore, facilitate a more efficient use of resources over the lifetime of the project.

SECTION 10.0 GROWTH INDUCING IMPACTS OF THE PROJECT

For the purposes of this project, a growth inducing impact is considered significant if the project would:

- Cumulatively exceed official regional or local population projections;
- Directly induce substantial growth or concentration of population. The determination of significance shall consider the following factors: the degree to which the project would cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds planned levels in local land use plans; or
- Indirectly induce substantial growth or concentration of population (i.e., introduction of an unplanned infrastructure project or expansion of a critical public facility (road or sewer line) necessitated by new development, either of which could result in the potential for new development not accounted for in local general plans).

The project is implementing a larger strategy plan for Winchester Urban Village and is consistent with planned growth in the *Envision San Jose 2040 General Plan.* The growth inducing effects of the planned growth were already analyzed in the EIR for the General Plan.

The project is proposed on an infill site along a major transportation corridor in the City of San Jose. The site is surrounded by existing infrastructure and both existing and planned development. Development of the project will not require upgrades to the existing sanitary sewer and/or storm drain lines that directly serve the project site. In addition, the project does not include expansion of the existing infrastructure that would facilitate growth in the project area or other areas of the City.

Development of the project site would place a new mixed-use residential/retail building in the middle of a mixed-use area with surrounding retail and housing, and nearby commercial/office development. The proposed project would be compatible with the neighboring land uses and would not pressure adjacent properties to redevelop with new or different land uses.

Development of this site under the proposed project would result in a small increase in jobs and a net increase in housing Citywide. There is currently a shortage of available jobs relative to available housing within the City of San Jose. This jobs/housing imbalance (analyzed in Section 4.1) is expected to reverse with full build out of the General Plan. The increase in jobs and housing resulting from the project will have a small effect on the overall jobs/housing imbalance within the City.

For all these reasons, the project would not have a significant growth inducing impact.

SECTION 11.0 LEAD AGENCY AND CONSULTANTS

Lead Agency

City of San Jose
Department of Planning, Building and Code Enforcement
Harry Freitas, Director of Planning, Building and Code Enforcement
Steve Piasecki, Interim Planning Director
David Keyon, Planner II

Consultants

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
San José, CA

Judy Shanley, Principal
Shannon George, Senior Project Manager
Kieulan Pham, Assistant Project Manager
Zach Dill, Graphic Artist

Hexagon Transportation Consultants
Transportation
San Jose, CA

Hort Science, Inc.
Tree Survey
Pleasanton, CA

Illingworth & Rodkin
Air Quality and Noise/Vibration
Petaluma, CA

SECTION 12.0 REFERENCES AND PERSONS CONSULTED

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Persons Consulted

No persons outside of City staff and referenced technical consultants were consulted for this analysis.